April 2014

BC Quota Policy & Governance Consultation

Prepared by
BC Milk Marketing Board

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Introduction

The British Columbia Milk Marketing Board (Milk Board) undertook a review of its policies relating to the governance of dairy quota in the province during the March 2013 – January 31, 2014 time period. The formal review was initiated in September 2012 in parallel with a supervisory review by the British Columbia Farm Industry Review Board (BCFIRB).[1]

Objective and Scope

The objective was to evaluate BC dairy quota policy through a transparent consultative process with the aim of developing an effective quota allocation and governance policy that will preserve, build and transition the BC dairy industry for future generations.

The project scope was limited to matters related to quota governance that fell within the authorities of the Milk Board and BCFIRB.

Process

As part of the review, the Milk Board held a series of seven regional consultations with industry stakeholders between September 26 and October 10, 2013. The consultations were framed as listening sessions where the Board could hear input on "what's working and what's not" with respect to its current policies relating to the allocation, production, and transfer of dairy quota, and where it could receive proposals for policy amendments and changes, and/or feedback on areas where new quota-related policies may be needed in order to respond to evolving industry needs.

The regional consultations were facilitated by an external facilitator, using a discussion paper that was developed during an earlier phase of the Quota Policy and Governance Review (See Appendix B). Following a brief introduction from a Milk Board staff or Board member and a presentation from the facilitator, attendees broke into roundtable discussion groups, where they selected and discussed questions identified in the paper. Discussion groups were free to select those questions that they deemed to be of the highest priority, and/or to propose additional areas for conversation that were not covered in the paper. At each table, a rapporteur recorded the group's feedback and later recounted this feedback to the facilitator, Milk Board representatives, and meeting attendees.

In parallel with the meetings, the Board also received input through a written submission process during September 11, - November 29, 2013 for Stage 1 "Identifying Issues and Ideas" and November 30, 2013 -January 31, 2014 for Stage 2 "Finding Solutions". Input received through this written process was received by email, fax or post to the BCMMB.

During Stage 2, the Board also engaged in discussions with key industry stakeholders and regional producer associations to ensure clear discussion regarding direction for future quota policies.

Themes
Five principle themes emerged through the consultation sessions in Stage 1 and the policy points related to these themes provided the base for Stage 2 discussions.

1. Distribution of General Allotments
2. Graduated Entrant Program
3. Farm Succession
4. Declining Transfer Assessment
5. Whole Farm Transfers and Quota Exchange

In addition to these themes, two underlying themes continued to surface, these reflected regional policies and the consolidation of farms in the industry. Lastly, the specialty and innovation policies had limited feedback and no substantial discussions at the consultation sessions.

Best-Balanced Board Direction
Following the completion of Stage 1 and 2 of the consultation, the Board conducted an in-depth review of all in-scope policy comments from stakeholders through the discussion sessions, written submissions, key industry groups and regional producer associations.

When key themes required consideration for a policy change or a response to keep current policies (status quo), the Board considered the following key principles in order to support long-term policy;

1. Does the policy support the industry to maintain current producers;
2. Does the policy provide opportunity or mechanism for renewal of the industry – new producers;
3. Does the policy create flexibility to manage quota for milk production;
4. Does the policy provide growth through innovation for value-added of the entire market (e.g. systems to connect companies or networks for growth); and
5. Does the policy support equitable quota allocation (e.g. sound governance guided by 'SAFETI' principles)?

The following report summarises the results of the BCMMB Quota Policy and Governance Review. Each section of the report provides the principles and objectives of specific policies (an overview of any rules and regulations that structure the Boards authority), any policy issues and concerns with respect to quota governance as presented through the consultation, all policy options discussed and considered by stakeholders and lastly, the Boards recommendations and rationale for decision with consideration of FIRB principles.

1.0 General Quota Allocation

1.1 Principles and Objectives of Quota Allocation

The BC Milk Marketing Board (BCMMB) is afforded powers under the Natural Products Marketing Act (NPMA) on behalf of the province of British Columbia (BC). One crucial aspect of a commodity board's responsibility is the allocation of quota. This accountability is noted in subsection 7.2 under Board Regulation - Powers and duties of the Board;

> *The board is authorized*
>
> *(a) to establish, allot, alter, suspend or cancel a quota, to which no monetary value is to be attached by the board, that applies to any person,*
>
> *(b) to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled,*

With reference to the Quota Policy & Governance Discussion Document, the following comments are noteworthy to review the principles and objectives of general allocations.

Under the *British Columbia Milk Marketing Board Regulation* (a regulation made under the federal *Natural Products Marketing (BC) Act*), the Milk Board has broad powers to "establish, allot, alter, suspend, or cancel a quota" and "to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled".

The province receives a finite amount of quota through a national allocation process, and the Board determines and administers the process by which that provincial allocation is distributed among BC's dairy producers. Similarly, the Board also establishes the rules under which quota is produced and can be transferred among producers.

Quota confers both a privilege and an obligation to produce milk upon the producers that hold it.[1] Holding quota denotes a commitment to being actively engaged in the BC dairy industry.

The BC dairy industry falls under Canada's system of supply management, a form of regulated or orderly marketing that balances domestic dairy production to consumer demand. Supply management ensures fair returns to efficient farmers and guarantees a steady supply of milk for processors and high quality dairy products for consumers at reasonable prices.[2] The Board must consider whether the distribution of quota (allocation

[1] See Section 27 BCMMB September 1, 2013 Consolidated Order.
[2] Additional information on supply management and Canada's dairy industry is available on the Dairy Farmers of Canada webpage. Some of the history and rationale underlying the implementation of supply management in the BC dairy industry was captured in a 2009 BCFIRB publication celebrating the 75th anniversary of that Board.

and/or retraction) is consistent with the principles of equitable to all producers; does the policy sustain the current producers; and does it facilitate renewal in the industry through new producers.

The Canadian Dairy Commission[3] (CDC) monitors trends in Canadian requirements (demand) and production (supply) on a monthly basis. Canadian requirements are defined as total domestic consumer demand plus planned exports for industrial dairy products. Production includes all production of industrial milk and cream within supply management.

The Milk Board receives bi-monthly notifications through a Canadian Requirements report (provided by the CDC) which takes into account the demand for industrial and fluid milk at the national level. The report determines whether provincial Boards need to allocate or retract quota to meet the current Canadian dairy market. The BC Board must determine whether there is a need to change the allocation to producers based on the production environment during that time period and is not required to allocate quota as the Board may hold back quota for new entrant programs and innovation as long as the production is meeting supply requirements.

1.2 Consultation Input and Realistic Alternatives during Finding Solutions:

During the Boards consultation with participants, stakeholders were asked to identify key quota policies that required review through a series of discussion questions; two main issues surfaced from the theme of general allotments. **The first, was the methodology of the allocation and the second was allocations to producers who do not produce their allocated quota.**

Both issues generated significant discussion regarding the pros/cons of the current policies and the need for more policies in the future that support production and allocate quota to the individuals that produce it.

In British Columbia, quota has been distributed and retracted using a pro rata system since August 1, 2000. The Milk Industry Advisory Committee (MIAC) provided a recommendation on August 16, 2000 to the Board of the day to change the methodology of allocations to a pro-rated basis.

Prior to this date, a system defined as the 50/50 policy for distribution was utilized. This policy distributed 50% of any general allocations by an equal quota share to all producers in British Columbia. The remaining quota (50%) was distributed on a pro-rated basis as it is today[4].

[3] The Canadian Dairy Commission is a Crown corporation which was established in 1966 with the mandate of coordinating federal and provincial dairy policies and creating a control mechanism for milk production which would help stabilize revenues and avoid costly surpluses.
[4] See Section 14 BCMMB August 1, 1999 Consolidated Order.

1.2.1 Status Quo – Pro-Rata Methodology for General Allocations and Retractions

The current policy for applying general allotments applies a percentage (as determined by the BCMMB) to the existing quota on all qualifying farms in British Columbia. The policy provides an equitable distribution of quota and a reasonable growth allocation for all farms. The policy also allows for quota to be allocated and retracted using the same method with a consistent impact on the farm.

The policy has been applied successfully over the last 14 years due to its simplicity and ease of understanding for producers. From a quota perspective, producers can anticipate the relative increases and decreases on the farm when allocations and retractions are announced. From a financial perspective, all freight and promotion rates are applied based on the value of CDQ on the farm. The financial calculations are complementary to the pro-rata methodology. For example if a 1% quota allocation is applied the producer is able to determine the financial impact for the cost of production.

One of the key challenges to determining an effective methodology is retractions and allocations values are not equal, therefore the methodology used to allocate quota can significantly impact producers based on their CDQ. For example, during the 2011 dairy year a total of 5.43% in allocations were distributed to BC producers, the following dairy year -0.50% was retracted and in the 2013 dairy year, -1.60% was retracted from producers. Current allocations for the 2014 dairy year are 3.5%. An average farm in BC is approximately 140 kg/day. The Board must consider policies that are designed to favour the average and not the extreme (i.e. minimum 4.1 kg/day or maximum 3,500 kg/day) in order to meet the objectives and principles designed to maintain sound governance practices.

The key benefits of the current general allotment methodology is the transparency, simplicity and fairness to all producers. The policy is applied the same to all producers in the case of an allocation or a retraction. The only variable is the amount of CDQ on the farm. A 1% allocation of quota adds 1.4 kg/day to the average farm and a subsequent retraction of 0.5% removes 0.7 kg/day from the average farm.

Another benefit is the Western Milk Pool (WMP) provinces also apply quota allocations and retractions in a similar manner. The province of BC shares many quota related policies with its partners in the west including the allocation of quota to the WMP (including the growth allowance) and then to the individual provinces through market share and any over and under production penalties. The complementary policies within the pool provide an advantage to all WMP producers and ensures no one province is negatively impacted through allocation or production practices.

During the consultation a few regions provided strong support to consider a change to the current allocation methodology to the 50/50 allocation policy. The following section examines the 50/50 policy proposal.

1.2.2 50/50 Methodology for General Allocations and Retractions

Contributors to this discussion suggested the current distribution of general allotments policy should be changed back to a 50/50 distribution of quota, a policy that was applied in the past when a Total Production Quota (TPQ) system did not exist and industrial quota (MSQ) and fluid quota were produced separately.

In order to fully understand the differences between the current system and the suggested policy change, the following examples have been provided based on the data below;

Current Producers = 511

CDQ = 71,127 kg/day for the province

January 1, 2014 Quota Allocation = 1% which equates to 711 kg/day

50/50 Scenario

**355.50 kilograms allocated to 511 farms on equal share= 0.70 kg/day*

**355.50 kilograms allocated to 511 farms @ 0.5% based on farm CDQ*

Pro-Rata (Current Policy)

**711 kg/day allocated to 511 farms @ 1% based on farm CDQ*

Example 1 – Smaller than average Farm in BC (100 kg/day)

Using the 50/50 allocation method the 100 kg/day producer would receive 1.20 kg/day ($0.7^{\text{50/50}} + 0.5^{\text{Pro-Rata}}$) instead of 1.00 kg/day under the current methodology.

Example 2 – Average farm in BC (140 kg/day)

Using the 50/50 allocation method the 140 kg/day producer would receive 1.40 kg/day ($0.7^{\text{50/50}} + 0.7^{\text{Pro-Rata}}$) under either methodology.

Example 3 – Larger than average farm in BC (180 kg/day)

Using the 50/50 allocation method the 180 kg/day producer would receive 1.6 kg/day ($0.7^{\text{50/50}} + 0.9^{\text{Pro-Rata}}$) instead of 1.80 kg/day under the current methodology.

The obvious benefit of this type of policy is that it allows smaller farms to grow at a faster pace than allocating all quota on a pro-rated basis. Based on January 2014 producer data there are 346 farms under 140 kg/day that would benefit from a change in policy in the case of an allocation.

The 50/50 allocation policy supports increased growth with producers who hold less than 140 kg/day and sustains current producers under 140 kg/day.

This type of policy becomes unequitable and less transparent during a quota retraction and becomes challenging for on farm management if several quota allocations or retractions occur in the same calendar year.

What happens in the case of a retraction? Retractions are not guaranteed to be an equal value to allocations during the same time period as identified earlier in this paper. Changes to policy at the national or regional levels could impact the amount of quota allocated or retracted in any given period.

During the consultation process, BCMMB staff had the opportunity to discuss concerns regarding the retraction of quota with producers who supported a change in the current allocation policy, two options were suggested; (a) allocate and retract using the same methodology or (b) allocate using the 50/50 methodology and retract using pro-rata.

In order to determine impact of these two methods the following examples have been provided; In our first set of examples, we used a 1% quota allocation using both the 50/50 methodology and the pro-rated methodology and the impact to a small producer (less than 140 kg/day), average producer (140 kg/day) and a large producer (over 140 kg/day).

The following examples have been created using the data listed below;

Current Producers = 511

CDQ = 71,127 kg/day for the province

June 1, 2014 Quota Retraction = 2% which equates to 1,423 kg/day

50/50 Scenario

**711.50 kilograms retracted to 511 farms on equal share= 1.40 kg/day*

**711.50 kilograms retracted to 511 farms @ 1% based on farm CDQ*

Pro-Rata (Current Policy)

**1423 kg/day retracted to 511 farms @ 2% based on farm CDQ*

Example 4 – Smaller than average Farm in BC (100 kg/day)

Using the 50/50 retraction method the 100 kg/day producer would lose 2.40 kg/day (1.40 $^{50/50}$ + 1.0 $^{\text{Pro-Rata}}$) instead of 2.00 kg/day under the current methodology.

Example 5 – Average farm in BC (140 kg/day)

Using the 50/50 allocation method the 140 kg/day producer would lose 2.80 kg/day (1.40 $^{50/50}$ + 1.40 $^{\text{Pro-Rata}}$) under either methodology.

Example 6 – Larger than average farm in BC (180 kg/day)

Using the 50/50 allocation method the 180 kg/day producer would lose 3.20 kg/day (1.40 $^{50/50}$ + 1.80 $^{\text{Pro-Rata}}$) instead of 3.60 kg/day under the current methodology.

1.2.3 (a) Allocate and retract using the same methodology

If the methodology was designed to be applied and retracted on the same principle, smaller farms (less than 140 kg/day) will not benefit if allocations and retractions are not of equal value. Looking at the two sets of examples, although smaller producers have a greater advantage in the allocation process, assuming the retraction is taken in the same manner the smaller producer could lose more than gained.

A more serious concern is that if retractions were removed using the 50/50 methodology, each producers file would require review in the case of a retraction. The BCMMB staff would need to assess whether a producer had bought or sold quota in between an allocation and a retraction; if a producer had merged quota from two IRMAs to one IRMA as this could be a benefit or a detriment; new entrants would require exemptions if the retraction was beyond the minimum production allocation requirement. The end result being a series of exceptions for the Board to review and provide decision on. The most important consideration is the lack of transparency of the calculations.

1.2.4 (b) Allocate using the 50/50 methodology and retract using pro-rata

If the 50/50 methodology is designed to be applied on a 50/50 basis and retracted on a pro-rata basis, a smaller producer (100 kg/day) would benefit at the expense of a larger producer. Using a 1% allocation, the smaller producer would receive 1.20 kg/day in allocations and then lose 1.00kg/day during a retraction of the equivalent amount. Therefore this producer would keep 0.20 kg/day if the value of the allocation/retraction was equivalent.

A larger producer (over 140 kg/day) would have received 1.6 kg/day under this same scenario and would have 1.8 kg/day retracted. Therefore this producer would lose 0.20 kg/day that was never allocated to them.

The Board would be challenged on the fairness of a policy that clearly benefits a specific group of producers.

1.3 Allotment – Differential Allocations

The second focus regarding general allotments was one of who was receiving the allocations; is quota being given to producers who are choosing not to produce the quota.

The Board tracks lost production kilograms provincially on a monthly basis. In the fiscal year 2012, a total of 111, 542 kg were reported as lost under production opportunity. These kilograms were then reissued through incentive day production which equaled 270,829 kg for the same time period. In 2013, 77,076 kg of lost under production were reported with 103,026 kg utilised under the incentive day policy.

The Board also tracks credit transfers. Producers who consistently transfer out a percentage of the quota allocated were also under scrutiny during this discussion. Quota is allocated to an individual with the expectation of production not profit through a credit transfer. The movement of transfers is difficult to assess since the Board cannot determine the reason for the transfer. A producer may require time to expand to meet the new allocation requirements, so the transfer out may be temporary; others may have no intention of ever producing the quota and may continue to transfer out the 10% maximum for an indefinite time.

The province is utilizing the production available and meeting provincial supply requirements; however, some producers are questioning whether this practice is fair? The question raised was should only those that produce the quota then receive the allocated quota? Would this type of differential quota allocation meet the principles of fair, equitable, accountable and inclusive?

Several policy inputs and realistic alternatives were communicated and then examined by the Board.

1.3.1 Sleeve Allocation

A suggestion provided during discussions was to consider a sleeve allocation instead of a permanent allocation during times of uncertain growth in the market. This practice is currently used in the organic industry due to constant changes to market demand.

A sleeve allocation results in a temporary allocation of quota for a period of time, quota could then be allocated based on utilization of the allocation For example, if 90% of the allocation is produced, the producer would receive 90% of the sleeve in permanent allocation. Although sleeve allocations have been used in the past when the province operated within a TPQ system, the current national continuous quota system could be a difficult system to coordinate sleeve allocations since the Canadian Requirements are calculated on a bi-monthly schedule. The province could run the risk of not meeting its provincial milk production requirements due to timing of allocations. In the past, when a sleeve was used, an allocation occurred at the end of the dairy year which complemented the national “dairy year” system.

The organic sleeve allocation policy requires manual calculations, which has been administratively possible due to the limited group size. This type of administration would be too difficult for the larger conventional group.

1.3.2. Allocate Only to Those Who Can Produce Quota

Some producers suggested a policy that could allocate quota strictly to producers willing to produce it. There is a significant concern with respect to producers holding on to quota due to the current 10/10/10 and LIFO retraction policies and either using the credit transfer system to profit off a regular transfer or simply holding on to quota rather than producing it.

Many comments from producers suggested creating policies that would (a) limit allocations only to producers who have produced a minimum percentage of quota on a twelve month rolling basis; (b) only allocate to producers who have not lost underproduction credits on a twelve month rolling basis; (c) allocate only to producers who have not lost deemed kilograms of quota on a twelve month rolling basis; and (d) allocate more to those who have produced more quota.

Policies like items (b) and (c) are administratively challenging and inconsistent with principles of fairness, and transparency. The Board would likely be faced with many exemption requests as to the nature of why credits were lost during the period under review. One common situation that occurs is related to a calculation error. Producers who tend to over produce and buy credits to cover off production can sometimes lose underproduction credits due to a calculation error or simply a change in production pattern on the farm. Bad feed, disease or weather can easily impact butterfat tests over the course of twelve months. The punitive nature of losing kilograms for production and then losing a quota allocation could be seen as being penalized twice for the same infraction.

Allocating based strictly on production is considered effective and will ensure milk is produced, however the long term impact of this type of policy may prevent a producer from the opportunity to receive allocations, and create a plan for future growth through the use of credit transfers to acquire cash flow to have the relevant resources to produce allocations at a later date.

The Board must consider the uncertainty and risks of whether allocating based on production is fair, effective and equitable in the long term and if it's prepared to implement a policy that requires significant Board supervision long term and whether the policy will create a barrier to some for growth.

1.3.4 Hold Allocations Back to Fund Programs

The Board currently reconciles quota on a bi-monthly basis to coordinate with the notification of change to Canadian Requirements. The reconciliation includes accounting for quota that is required for all Board funded quota programs (i.e. GEP, specialty sleeve etc.). This practice has been applied by the Board administratively for years in order to manage quota production with the national system. This practice has ensured programs that require quota have never been short of resources to start producers and address the key principle of growth through renewal with new producers

Another risk consideration of holding back quota is the global assessment strategy. This type of policy would require the Board to take an assessment from all producers currently in the industry in order to fund Board quota programs. This type of policy would be to the benefit of producers selling out of the industry and not to producers staying in for the long term.

1.3.5 Sell Allocations on the Exchange

Another input for policy consideration alternative was the idea to sell all quota allocations on the quota exchange and provide an opportunity to all producers to purchase quota.

Although this type of policy would get the quota in the hands of producers who want to produce it and are willing or able to pay for it, the Board would face challenges with respect to managing this type of system. The Board would be recognizing a monetary value on quota that is allocated to the province. The province of BC is responsible to allocate the quota received from the federal system to provincial licensed producers and cannot recognize any value for quota (as per the NPMA), the value is defined through transfers between producers. (See Appendix A)

1.3.6 Regional Allocations

Differential quota allocations have been applied in the specialty industry and new entrants to encourage growth, renewal and support innovation in the province. Producers in outlying areas have suggested a differential quota policy that ensures the long term viability of farms outside of the Fraser Valley.

No formal differential quota policies currently exists to support farms in regions outside the lower mainland, however many policies that exist today, support the production of quota in outlying areas. For example, the shared freight costs for all quota in the province is a policy that encourages producers to produce milk outside of the Fraser Valley with the support of majority of producers residing in the Fraser Valley; the Board has implemented policies that support the expansion of production in the specialty industry in outlying areas; and lastly all producers have the opportunity to purchase quota on the quota exchange or through whole farm transfers in order to grow.

Key sources of uncertainty and risk:

The Board encourages and supports the production of quota in the entire province through its policies and has not applied policies that deter the production of milk outside the lower mainland. Would regional allocations be fair and effective since producers may purchase whole farms from the region and move the quota to other regions such as the Fraser Valley?

The Board must consider long term policies with respect to quota allocations that are fair, effective, and transparent. Would policies that compromise these objectives create unacceptable risk and challenges for the Board in the management of quota.

1.4 Board Best- Balanced Recommendations

The Board reviewed all comments and concerns with respect to general allotments during stage 1 and stage 2 of the consultation. The Board consulted with the MIAC regarding this policy as the committee initially provided the recommendation to change the methodology in August 2000 and the regional producer associations. With these considerations, the Board provides the following recommendations and rationale;

1.4.1 General Allocation-Methodology

Rationale: With respect to the methodology of how allocations are distributed, the Board does not feel there is a significant benefit to all producers to change policies. The current distribution methodology is fair and equitable to all producers and does not impact one specific group in a negative manner. The Board has concerns with the transparency of allocations and retractions if policy methodologies differ and certain policies hinder a specific group of producers based on their CDQ. The current policy complements the national allocation of quota and is consistent with our partners in the west. The policy creates no significant swings in production for the individual farm.

The Board recommends the distribution of general allocations remain on a pro-rata basis in order to meet the principles and objectives of the quota allocation policy. This best-balanced decision is consistent with MIAC recommendations.

1.4.2 General Allocation-Differential Allocations

Rationale: With respect to the discussion on differential allocations, the Board considered the long-term impact of policies that could impede the industry from growth. Policies that are designed to allocate quota to only those who can produce during a specific timeframe can create challenges. The Board must ensure the policies for allocation are equitable, sustainable, and facilitate renewal for all dairy producers. Although many policy suggestions create production and reward those who are established and will remain in the industry, applying differential allocation policies may be punitive and could hinder new entrants. The Boards responsibility is to allocate quota in a fair and equitable manner and it is the Boards position that all licensed and qualified producers are entitled to receive an allocation.

The Board recommends no application of differential allocation policies in order to meet the principles and objectives of the quota allocation policy.

2.0 Graduated Entrant Program

2.1 Principles and Objectives of the Graduated Entrant Program

Over the last 25 years, the BCMMB has provided assistance to new entrants through some form of a graduated entrant program. The programs have been adjusted over time but key principles have remained consistent.

The overriding principle of the GEP is to support the growth and viability of the milk industry by promoting the ongoing entry of new farmers who wish to be actively engaged in producing milk to meet the demand of BC consumers for a broad range of milk and milk products[5].

The current policies related to the Graduated Entrant Program as directed by FIRB (see Appendix J) were introduced in 2004. The BCFIRB considers a new entrant program essential to the strength, viability and credibility of the regulated marketing sector and the BCMMB supports this objective.

In the FIRBs direction during the 2005 Specialty Market and New Entrants Review[6], the following directives were provided for any specialty milk production;

5. *For all specialty and new entrant quota issued on or after the implementation of the specialty and new entrant programs, the Board should institute the declining transfer assessment.*

18. *The Board's Graduated Entry Program (GEP) program should continue unchanged except that organic milk entrants should be given priority when there is an unfilled organic milk demand, and incentive quota issued should be transferable. The Board should not subsidize the organic milk premium during transition.*

19. *The Board should consider having an independent third party administer the new entrant waiting list, subject to the recommendation of the Specialty Markets Advisory Committee.*

In the 2006 Specialty Review letter[7], the FIRB offered the following general directives to provide further clarity to the 2005 review;

<u>New Entrant Programs</u>

34. *The Milk Board has been a leader in providing new entrant opportunities for individuals wishing to enter the milk industry. FIRB acknowledges that the Milk Board's program has adapted over time to changing needs and experience.*

35. *FIRB recognizes and respects that the Milk Board has committed to provide a minimum of three (3) new entry invitations annually.*

[5] FIRB Correspondence to BCMMB; File 44200-70/MMB GEP REV; May 20,2004
[6] FIRB Correspondence to All Marketing Boards and Commissions; September 1, 2005
[7] FIRB Correspondence to BCMMB; File 44200-60/SPEC REV;44200-60/ORDERS ;July 19, 2006

36. The Milk Board is to issue invitations based on providing priority to applicants planning to produce designated specialty products, subject to there being unfilled market demand, and to applicants planning to produce outside the Fraser Valley. The Milk Board should also require that there be a demonstrated milk transportation plan either to a regional processor or in conjunction with other regional producers shipping jointly outside the region.

37. FIRB recognizes and accepts the Milk Board's current plan of issuing 5,000 kg of quota plus 2,000 kg of quota to match the acquisition of 2,000 kg by the new entrant. Any quota issued under the New Entrant Program is to be fully transferable in accordance with the 10/10/10 transfer assessment restrictions.

In addition to the specific directives provided from the Specialty Review, all Boards and Commissions were directed by the FIRB in May 2007[8] to have regard to the following principles at minimum with respect to any new entrant programs;

- New entrant programs exist because they are desirable as a matter of sound marketing policy to encourage persons to enter into the supply management systems;
- These persons should be genuine new entrants to that system and not have personally profited from that system by having previously held quota either personally or through their financial interests in a corporation or partnership;
- New entrant programs should recognize that diversification of the producer base is equitable and desirable having regard to the history and development of the quota system; and
- Making new entrant quota available to new producers encourages innovation, regional priorities and diversity, new ideas and new voices in the supply managed system.

2.1.2 Graduated Entrant Program

The current GEP provides new entrant producers with an opportunity to begin dairy farming. **The program was designed to ensure industry renewal and address the consolidation of farms in the province. The policies intended to provide financial support and ensure production of quota.**

The Board supports this initiative with an initial allocation of 13.7 kg/day of CDQ. Where a new entrant purchases or acquires CDQ within five years of commencing production, the Board will allot to the new entrant an amount of CDQ equivalent to their purchase, up to a maximum of 5.5 kg (also referred to as the matching principle).

[8] FIRB Correspondence to All Marketing Boards and Commissions – Eligibility Criteria for New Entrants; FILE 44200-60/SPEC REV; May 3, 2007

Entrants under the GEP as well as new producers entering the industry outside of the GEP also receive priority status on the Board's Quota Exchange.

Since 1992 the Board has started 116 applicants. The waitlist for the program currently has 42 names on it and has been closed to additional names since December 2005.
Some quota allotted under the GEP is currently provided from a pool containing the Board's assessments against quota transfers amongst producers (see Section 4 'Declining Transfer Assessment more detail). The program length is 10 years and children of producers were permitted to add their names to the program wait list. The Board currently commits to starting a minimum of three producers annually from the wait list.

As part of the BCMMB's strategic plan, the Board commits to provide effective and efficient quota management policy and uses sound governance for policy creation to ensure the future of the industry continues in the province.

One issue that has surfaced in the industry is the consolidation of farms within the province. The statistics show, BC continues to have less farms producing more quota year over year. Currently BC has 508 farms producing 71,135 kg/day; in the year 2000, 725 farms produced 58,473 kg/day. Therefore one of the goals of a successful GEP must be to address future consolidation (provide renewal of the industry with new producers) and to enable the opportunity for success of new entrants trying to enter the industry.

2.2 Consultation Input and Realistic Alternatives during Finding Solutions:

During the consultation sessions, all stakeholders were generally supportive of maintaining a program that will assist new entrants into the dairy industry. Serious concerns were brought forward by participants with respect to pre-screening of new entrants, transparency, expectations and active engagement on the farm.

Many producers outlined the challenges new entrants face and encouraged the Board to develop policies to facilitate renewal of the dairy industry for true new producers with a lottery system for quick entry, an allocation amount that is economically viable, allocation of non-transferable quota and a longer commitment term in the program.

The following policy proposals summarize key discussion point's at all regional sessions and any written inputs provided during stage 1 and 2 of the consultation.

2.2.1 Waitlist

Generally all industry participants agreed 42 potential wait list candidates is a list that is too long to be an effective tool to encourage new entrants. The list will require approximately 14 years (3 entrants per year) to complete.

Contributors to this discussion emphasized the need to exhaust the current list quickly and create a new program that would not accumulate potential entrants but would rather be run similar to a lottery system. This type of system would allow interested new entrants the opportunity to start farming right away if selected, and prevent other career paths for

15-20 years while waiting for selection. New producers could also start at a younger age which would provide a longer investment in the dairy industry. It was suggested to invite all applicants immediately and stage entry in order to ensure their commitment.

Other discussions suggested that the Board should not wait to exhaust the wait list as it is not beneficial to the future of the industry. Currently transparency and credibility issues are evident amongst the stakeholders and managing these types of concerns over another decade will likely create further speculation on the validity of this program. Some participants suggested an elimination of the waitlist and the creation of a new program immediately would provide much needed transparency to the public and specifically to producers.

Over the last three years the Board has invited 15 waitlist participants (5/year) to start producing milk through the increase of national allocations and available quota from retractions and assessments. The Board continues to ensure GEP participants are given priority to the available quota and any additional quota is provided to the specialty and innovation markets if required.

2.2.2 Program Length

Participants expressed concerns on the ability for a producer to participate in the dairy industry for 10 years and then selling out allocated quota with minimal investment requirements and in some cases retaining other employment. Some stakeholders suggested a longer program length (i.e. 15 or 20 years) may deter the program from becoming an easy investment opportunity versus long term industry investment and will draw the type of individuals who will support farming for a long period of time.

Over the last 20 years (1994- present), 99 producers have started farming and a total of 27 (27%) producers have quit under the various GEP programs during this same time period. The concern during discussions was more specific to the actual number of quits that occur within a year of the completion of program requirements. According to Board records, 12% of the participants over the same time period left the GEP after one year of program completion and no producers have quit in the last 10 years. So although a valid concern by the industry, it appears the program length coupled with other policies (i.e. declining transfer assessment) is working to deter GEP producers to quit after 10 years.

2.2.3 Quota Allocation

If the Board was to entertain developing a new program for dairy entrants, many participants (primarily producers) voiced concern on the allocation of quota (maximum 19.2kg/day) being economically challenging for any new entrant.

Through discussions, some stakeholders encouraged the Board to allocate more quota to new entrants but restrict transferability in order to ensure a long term investment for the industry. Unfortunately making quota non-transferable would conflict with the declining transfer assessment policy and the FIRB directive from the specialty review that all quota should be transferable within its class.

Examples used were the allocations in the cottage industry program (maximum of 27.4 kg/day) and the specialty industry (maximum of 13.7 kg/day on a 68.5 kg/day base).

Others argued, although important both from an economic and efficiency aspect for a new entrant to have an operation that is sustainable, that this is not the Boards responsibility. New producers should be able to inherit quota or purchase quota as required through a loan program that assists new entrants and creates opportunity for long term investment.

2.2.4 Family Transfers

Exempt family transfers are currently permitted to those GEP candidates with parents still farming in the industry. Many attendees questioned whether the Board's current practice of allowing the GEP to be used to facilitate the transfer of farms between generations of a dairying family should continue. Some referred to this practice as a succession plan as the current wait list candidates make up approximately 75% of current farming families.

In its February 16, 2007 correspondence[9] to all Boards and Commissions in BC, the FIRB recognized that family members of persons who presently hold quota should not be categorically excluded from participating in the GEP where an independent farm operation will exist. The FIRB proposed to only exclude spouses from the list as there is an obvious economic relationship.

The stakeholders were split with respect to this discussion. Some participants were adamantly opposed to allowing a family transfer to an individual participating in a Board sponsored program. The allocation of 19.2 kg/day to an individual that stands to gain additional quota provides an unfair advantage to those in the industry as any quota held back for programs is taken from the general producer pool. Do children of producers require assistance through a quota allocation worth over $800,000 when an average farm in BC has 140 kg/day on it and a significant number of wait list entrants will likely benefit from an exempt family transfer?

It has been noted by FIRB[10] that this type of practice of "double dipping" creates a credibility issue since a family is benefiting twice from the GEP. Once when a son or daughter receives a quota allocation through the program and secondly when no assessment is applied through a family transfer to that same child.

The optics of this intergenerational succession plan creates the illusion of a closed industry and the risk of losing participants from outside the industry therefore losing diversity and potential innovation opportunities.

[9] FIRB Correspondence to All Marketing Boards and Commissions – Eligibility Criteria for New Entrants; FILE 44200-60/SPEC REV; February 16, 2007

[10] FIRB Correspondence to BCMMB – GEP Eligibility; FILE 00295-20 MMB GEP; June 14, 2007

Others argued for the current practice to remain as is, it provides new entrants with economic viability and the security to sustain the farm in the long run. Succession is not a Board issue. In many cases although the quota is transferred without assessment, it is still purchased by the children in order to secure their parents retirement.

Many producers have more than one child and require the GEP to start children into the dairy industry and some parents do not leave the industry and continue to farm for many years. It is noteworthy that children of current dairy producers are the most knowledgeable and prepared for the challenges of dairy farming.

Other policy suggestions included limiting exempt transfers for a period of time or restricting the program to entrants with no inheritable quota options.

2.3 Board Best- Balanced Recommendations

Rationale: Following a review of all policy proposal submitted to the Board with respect to the Graduated Entrant Program, the Board discussed whether the current program required change and the impact to those who have been on the wait list for over ten years. The Board consulted with regional producer groups to further understand the issues and comments made during stage 1 and 2 of the consultation.

The results of the consultation strongly emphasized the need to exhaust the existing GEP waitlist and create a new program more reflective of the industry and supportive of the future of dairy. The Board considered the challenge to fair and equitable principles of a program that is changed mid-stream. Sound governance must consider that there is a level of due diligence and transparency to those persons on the wait list with respect to the program.

In order to support the key principles of the Graduated Entrant Program as provided by FIRB, and recognizing the individuals who are currently still on the wait list to start production, <u>the Board provides the following recommendations and rationale</u>;

The Board recognizes the 42 wait list candidates and recommends invitations be provided to all 42 candidates immediately advising of a start date within the next 5 years. All potential candidates will be required to start in a staged priority approach within the five year period, no extensions will be provided beyond 2019.

The Board recommends the following program parameters for a new Graduated Entrant Program;

1. **Producer selection will take place through a lottery system administered by an independent Audit firm as directed by the BCMMB.**
   In order to avoid another closed system wait list, the Board is recommending a lottery system administered independently relevant to the market requirements of the year in which a potential candidate chooses to apply. This practice is used by other Boards and attempts to draw on individuals who are interested in farming immediately.

2. **Potential candidate must be a Canadian citizen (or permanent resident), reside in BC and be the age of majority to apply**
   These qualifiers provide the Board with security that the individual is willing to provide investment in BC and legally able to make decisions.
3. **The applicant nor the Spouse of the applicant may have, or have had at any time, any financial interest in Continuous Daily Quota or any other licence, permit or quota issued, allotted or granted by any other supply management commodity board or commission in Canada, whether directly or indirectly, or through any organization or entity.**
   With respect to the fairness and equitable aspect of the program, it is essential the Board provide opportunity to new entrants who have not benefited from allocations in other supply managed commodities.
4. **Up to 5 Candidates will be chosen per year as directed by the BCMMB**
   It is essential the Board safeguard the market for milk supply through production while enhancing new entrant, specialty and innovation markets. The Board will require flexibility based on market conditions to determine how many producers should be invited annually.
5. **$10,000 deposit required if selected**
   Upon invitation by the Board, the new entrant will be required to provide a $10,000 security deposit to provide assurance of acceptance in the program. This deposit can later be applied to the purchase of quota.
6. **Program length will remain 10 years**
   Although the program length was a concern to some producers, the Board is recommending the length remain 10 years. Based on statistics that show no real abuse of the program following 10 years and the continued use of the declining transfer assessment, 10 years is a complementary time period for compliance.
7. **Initial allotment will be 14 kg/day**
   The initial allotment was also an area of concern throughout the consultation especially to ensure a viable efficient farm operation. The Board recommends providing a 14 kg/day allotment and providing the opportunity for new entrants to buy more quota and receive a matched amount from the Board.
8. **Matching quota will be increased to a maximum of 7 kg/day**
   As per the comment above, the Board will provide the opportunity for new entrants to match up to 7 kg/day which will result in a new entrant who maximizes quota purchases to start farming with 28 kg/day, similar to the maximum allocation under the Cottage Industry Program (27.4 kg/day).

9. **Declining Transfer Assessment will continue to be applied to all quota**
   The declining transfer assessment is a global policy applied to all allocated quota in BC.
10. **No exempt transfers will be permitted for a period of 10 years**
   A key concern by stakeholders is the opportunity for GEP producers to "double dip" on opportunities (allocation plus no assessment on family transfers). The Board recognizes this concern and wants to support a new entrant program that is equitable, transparent and fair to all who apply. By creating a limitation on transfers in the early stages all candidates will participate in similar opportunities and be faced with similar challenges on their farms.
11. **The farm production unit must be on a location where quota is not being shipped on the day the entrant begins production**
   The potential producer must provide a farm production location that will not be producing quota on the day the entrant begins. The Board continues to support an independent production operation to encourage renewal within the industry, as per the requirements of the current program.

These parameters for a new Graduated Entry Program will be developed into a draft GEP program for further consultation while the current GEP wait-list is being depleted over the next 5 year

3.0 Farm Succession

3.1 Principles and Objectives of Farm Succession Planning

Farm succession may be directly linked to the transfer of quota from one party to another with minimal or no assessment. The policy primarily facilitates the renewal of the dairy industry with “new” producers (i.e. sons and daughters of existing producers) and supports an equitable quota allocation to the direct lineage of children. The current exempt transfer provision allows succession by sustaining the current producers and farms.

The BC Milk Marketing Board (BCMMB) is afforded powers under the Natural Products Marketing Act (NPMA) on behalf of the province of British Columbia (BC). The BCMMB is responsible to provide a mechanism for the transfer of quota.

This responsibility is noted in subsection 7.2 under Board Regulation - Powers and duties of the Board;

> *The board is authorized*
>
> *(a) to establish, allot, alter, suspend or cancel a quota, to which no monetary value is attached by the Board, that applies to any person,*
>
> *(b) to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled,*

In addition to the Boards authorization, the FIRB provided direction in its 2006 Specialty Review letter[11] with respect to exempt transfers;

> *Quota Transfer*
>
> *18. The Milk Board is to require all quota to be transferred through the Quota Exchange except transfers for which assessment exemptions are provided at paragraph 24. In addition, the Milk Board may choose to accept a whole-farm transfer (milk production unit and quota) from the exchange when the farm and quota stay intact. In this situation, the transfer assessment provisions still apply except as provided in paragraph 24.*
>
> *Quota Transfer Assessment Exemptions*
>
> *24. Exemptions from quota transfer assessment are to be limited to family members, defined as spouses, sons and daughters, for business reorganizations where the ownership percentages do not change, and quota swaps where each party to the swap begins and ends with the same amount of quota and the swap is solely for the purpose of balancing annual production within quota.*

[11]FIRB Correspondence to BCMMB; File 44200-60/SPEC REV;44200-60/ORDERS ;July 19, 2006

25. The Milk Board may not provide any other exemptions from transfer assessment.

Lastly in a further communication by FIRB on January 26, 2007; Review of Specialty Production and New Entrant Programs – Improving Access to the Supply Management System – Exemption of Siblings from Quota Transfer Assessments.

> *…it was mutually agreed that an exemption for quota transfers between siblings would be approved under one condition. This condition is that the exemption is limited to transfers between siblings for reasons related to succession planning, and where the quota amount being transferred is and will remain attached to the "family farm" in question. Any transfer to a sibling, for any purpose, that results in quota being moved off the "farm", except to a person exempted in accordance with BCFIRB's original September 2005 Direction, will require a transfer assessment to be imposed.*
>
> *This further exemption applies to all boards when using direct assessments on quota transfers.*

The current policy as defined by FIRB (See Appendix E; Section I (3)) for exempt transfers allows parents to transfer quota to children without assessment. The limited scope of exempt persons was intentional to a small group in order to allow for the majority of transfers to occur on the quota exchange as per the intent by FIRB and to minimize any risk to the commodity Boards with respect to effectively resolving quota management issues.

3.1.1 With reference to a FIRB communication (October 24, 2013) to the BCMMB, the current policy on quota transfers was set by BCFIRB in 2005 and 2007 following a comprehensive review ("Specialty Review") of significant issues with quota management by BC's supply-managed boards. Some of these inter-related issues included:

- availability of quota for people wanting to enter the industry and for farmers wanting to grow their current business;
- availability of quota to meet emerging markets and build new, value added markets;
- whether quota held by producers was being actively produced; and,
- windfall profits realized by producers through 'flipping' quota that they had received at no cost from the boards.

The BCMMB recognizes that any changes to such an intricate policy will require a similar level of consultation. However, in British Columbia today, dairy farming contains various levels of business organization unlike 50 years ago when the farm was organized as a "mom and dad" entity. Many farms have a very complex structure which includes corporations, many limited companies and several family trusts.

Farms have gone through a generation or two of succession and brothers, cousins, aunts, uncles are all intertwined as shareholders of quota on one farm. Intergenerational transfers under this premise become challenging and the current individuals listed to participate in an exempt transfer creates complications on many farms and challenges to address the

Board's strategic plan goal to renew the industry with new or younger producers for long-term sustainability of the industry

During the consultation sessions, stakeholders strongly requested policy changes that would "broaden the family tree" to enable more family members to benefit from quota transfer assessments, including the transferability of shares within corporate farms. Comments provided were consistent that with these changes, the Board could limit its engagement in such issues while still maintaining policies that do not impede the industry.

3.2 Consultation Input and Realistic Alternatives during Finding Solutions

During Stage 1 & 2 of the consultations, four key inputs summarized discussions on intergeneration succession;

3.2.1 Exempt Persons

It was clear that the producer body is asking the Board to review the exempt person criteria and allow the list to reflect today's modern family farm. Specifically the inclusion of transfers to nieces, nephews, and grandchildren.

Comments by stakeholders went as far as suggesting an exempt transfer should include any person who is "a lineal descendent (or their spouse), of an original producer in respect of existing Continuous Daily Quota." Although this type of language could provide flexibility with succession, the original directive of FIRB was specific in identifying key individuals that can be exempt in order to meet the issues faced by all commodity boards.

With reference to earlier in the paper, a level of succession has already occurred in the industry. In order to support the succession to the next generation, a formal change to the exempt transfer list could provide opportunity to secure farms and sustain the dairy industry in the province.

Although the Board recognizes quota has no value, the value that is created through transfers makes it difficult for a new entrant who has a family farm but is unable to receive quota through the rules of the consolidated order even though indirectly related (i.e. niece or nephew). Therefore a likely consequence of this type of scenario is the quota and the farm would need to be sold separately resulting in a closed dairy.

Stakeholders also discussed the opportunity for a deemed transfer if an exempt transfer was not option. A deemed transfer of quota would benefit the industry two- fold. The farm could continue producing milk and secondly the deemed quota would benefit new entrant, specialty and innovation markets as required.

A related risk involved with expanding the exempt persons list is less assessments would be made available to the Board for programs. This could result in the Board using options similar to the BC Chicken Marketing Board in which the Board would calculate the prior three years quota transfers to establish an average and then define what a percentage of the average transfers should be allocated to new entrant, innovation and specialty programs. This practice is commonly referred to as a global assessment policy. The quota is funded from general allocations or retractions depending on the market situation. This policy would impact only those producers who remain in the industry. See Section 4 – Declining Transfer Assessment for further discussion.

In fairness to the comment above, the Board currently refrains from allocating quota until all required quota responsibilities have been met. As noted in Section 4 Declining Transfer Assessment, quota received from all assessments supplied only 80% of the program requirements, the balance was supplied through allocations to the province.

Lastly, a concern with respect to the limitation of sibling transfers brought forward. Siblings are currently allowed to move quota off the family farm without assessment, however if two siblings moved quota off the family farm they are unable to transfer quota to each other unless through a whole-farm transfer which only provides 50% of the quota available or as per FIRBs directive, if quota is transferred back to the family farm, no assessment is applied.

3.2.1 Corporate Family Farms

In order to maximize benefits of running a business, over 50% of the dairy farms today are corporations. Corporate structures can provide significant benefits to a business; limited liability, perpetual existence, tax advantages, and capital. One important advantage is the transfer of ownership through the use of shares.

When quota is allotted to a corporate producer, the quota is also "deemed" to have been allotted in proportion to the interest of each individual having a direct or indirect interest in the control or financial growth of that corporation. This follows from subsection 16(3) of the Consolidated Order (See Appendix G), which provides as follows:

> *Where a Producer is a corporation, Continuous Daily Quota allotted to that Producer is deemed to have been allotted in proportion to the interest of each individual having a direct or indirect interest in the control or financial growth of that corporation, whether by means of shares in that corporation (and irrespective of the class of shares) or by way of a share interest in a parent corporation, and will be registered by the Board in the name of the corporation and in the names of each of the individuals having such a direct or indirect interest in that corporation. At the time of first registration, and subsequently as required by the Board, the corporation shall file with the Board:*
>
> *(a) a list of the names and addresses of the officers of the corporation;*
> *(b) true copies of its Certificate of Incorporation, Central Securities Register and Register of Directors; and*
> *(c) true copies of the Certificates of Incorporation, Central Securities Registers and Registers of Directors for each parent corporation having a direct or indirect interest in that corporation.*

The corporation shall further inform the Board in writing one calendar month before any change is made with respect to the share allotment within, or structure of, the corporation.

Shareholders have an indirect interest in the control of quota or financial growth of the corporate producer. If shareholders that are non-exempt are added to a corporate producer, the existing shareholders will be deemed to have transferred quota to the non-exempt shareholders. This change in shareholder structure by adding shareholders will result in a decrease of the interest of existing shareholders.

This issue is one that will have a long term impact to the industry simply through the large numbers of family corporate farms and the volume of non-exempt family members that would be unable to participate in the control of quota due to the current policies on exempt transfers.

The stakeholders provided strong concerns during the consultation sessions that the current policies create a challenge for future growth and therefore are ineffective for the health of the industry. The current policy does not support the principles to sustain current producers and enable growth with new producers.

The Board has no specific provisions to support corporate family transfers at this time.

3.2.1 Non-Family Exemptions

Although the nature of farming supports a family structure through exempt transfers, there are other situations in which the farm is run by non-related individuals. In these cases, a producer may want to provide an investable opportunity to an individual to secure their commitment to the business and ensure the corporations existence in the future. Not all farms have children or grandchildren willing to work on the farm.

Under the current policy provisions as noted above, any shareholders added to a current corporate structure constitutes a deemed transfer. In this scenario, the transfer could not occur as the individual is not related (i.e. exempt).

Although this topic was discussed throughout all of the sessions, the Board did not hear a viable basis or support to add non-family members to the exempt persons list for quota transfers. In fact, some producers were opposed to extend exemptions to non-family members and noted that it would be difficult for the Board to enforce or regulate this broad exemption proposal. Some producers commented, other investable options could be made available on the farm instead of quota.

Any change to this provision would alter the FIRBs original objective to intentionally limit the amount of exempt persons in order to ensure transparency, fairness and equal access to quota on the exchange for all producers.

3.2.1 Limited Board Involvement

One theme that remained consistent throughout discussions was the Board should have limited involvement with respect to succession planning. The Board controls aspects of quota not business or family decisions.

Some stakeholder comments indicated that policies were working effectively today with a limited exempt transfer list and no further changes were required for the long term success of the industry.

3.3 Board Best- Balanced Recommendations

Rationale: Throughout stage 1 and stage 2 of the consultation, stakeholders provided strong concerns regarding the risk of maintaining a rigid exempt person's policy for the long term.

Following a review of all policy proposals with respect to succession planning, specifically intergeneration transfers, the Board consulted with regional producer organizations and discussed the long-term impact of changing the current exempt persons list to support long-term renewal within the industry. Five of the six regions supported the extension of the exempt persons list to include nieces, nephews and grandchildren.

The Board reviewed the FIRBs key objectives and principles with respect to the development of the original policy, recognizing the need to incorporate these points into any recommendation provided.

With consideration of extending the current exempt persons list to include nieces, nephews and grandchildren, the availability of quota of the exchange will likely not decrease by significant levels. Importantly, the policy provides opportunity to sustain current farms. The Board provides quota for innovation and growth as required through the reconciliation of available quota on a bi-monthly basis. Lastly, the declining transfer assessment provides the assurance quota is produced and not sold for a profit following allocation.

With these considerations, the Board provides the following recommendation;

The Board recommends a change to current policy to extend the exempt persons list for quota transfers to include nieces, nephews and grandchildren in order to facilitate family transfers especially within a corporate family structure.

4.0 Declining Transfer Assessment

4.1 - Principles and Objectives of Declining Transfer Assessment Policy

The current policy as directed by FIRB (see Appendix H; Section IV 23(B)) allows a producer to earn 10% of his/her quota allocation over a 10 year period resulting in a 10% assessment after 10 years. **The policy is designed to ensure producers "produce milk", quota is equitably transferred and windfall profits are prevented**.

The practice of using an assessment is intended to support equity between producers both new and existing, sustain current producer participants; ensures new producers can enter the industry and can remain in the industry for a long period of time; allows for flexibility for on farm management and supports innovation that will allow the industry to continue to grow over time.

The Board applies an assessment against quota transferred among dairy producers. Assessed quota is used to make allocations to the GEP, Specialty and CIP producer participants.

The declining transfer assessment was applied to all Commodity Boards following the FIRBs consultation of specialty markets and the new entrant programs (Specialty Review) in 2005.

The FIRB provided specific direction to the BCMMB in its 2006 Specialty Review letter (July 19, 2006) with respect to Quota Assessments and Quota Transfer Assessment Exemptions, with key directives highlighted;

19. *The Milk Board is to impose a five percent (5%) transfer assessment on all transfers of quota that was issued prior to September 1, 2005, except as specifically exempted (see paragraph 24).*

20. ***All new quota, including both TPQ and STPQ, allocated to B.C. producers is to be subject to the 10/10/10 declining transfer assessment.***

21. ***All quota transferred is to be subject to the "last in, first out" rule whereby a producer must transfer the most recently issued quota first.***

22. *All quota realized by the Board from assessments is to be made available for the New Entrant Program, the Cottage Industry Program, and new product/market innovations. For clarity, quota realized from assessment is not to be redistributed among existing quota holders until adequate quota has been provided to all other programs and then only in accordance with the allocation criteria, including supplying B.C.'s specialty markets with B.C. production and providing for differential growth between TPQ and STPQ. The criteria by which these allocations are determined must be prior approved by FIRB in accordance with the September 1, 2005 directions.*

23. *FIRB requires the Milk Board to provide an annual report detailing all transfers made in the year, the assessments made and the exemptions granted, and the actual and/or planned distribution of quota realized from assessment. This report is to be provided when the Milk Board submits its Annual Report to FIRB or pursuant to reporting requirements that may be required of the Chair pursuant to the Memorandum of Understanding between the Minister, the FIRB Chair, and the Chair of the Milk Board.*

24. ***Exemptions from quota transfer assessment are to be limited to family members, defined as spouses, sons and daughters, for business reorganizations where the ownership percentages do not change, and quota swaps where each party to the swap begins and ends with the same amount of quota and the swap is solely for the purpose of balancing annual production within quota.***

25. *The Milk Board may not provide any other exemptions from transfer assessment.*

With reference to the Specialty Review (September 1, 2005), "the purpose of an assessment is to provide for a degree of redistribution of quota rights to allow Boards to distribute a scarce resource (quota) in a manner that will improve market responsiveness to specialty markets and provide additional access to the system."

These directives were designed to ensure that new entrant and specialty sectors were accommodated, and that producers who had no ability or intent in producing milk against allocations received from the BCMMB were not simply profiting from the sale of that allocated quota. Therefore windfall profits and engagement issues have been the centre of the declining transfer assessment debate over the last eight years.

4.1.1 Assessments and Retractions

With reference to the Quota Policy & Governance Discussion Document the following section provides a detailed explanation on how and when assessments are applied and the objectives and principles embedded in the policy.

On quota allotted before September 1, 2005, the assessment is 5.0% of the total CDQ being transferred. Quota allotted on or after September 1, 2005 is subject to a declining transfer assessment, as established for all of BC's supply managed sectors following the 2005 Specialty Review.

In the first year following issuance, 100% of quota is automatically retracted on transfer. In the second year and subsequently, the amount retracted declines by 10% per year until it reaches a minimum assessment of 10% in the tenth year. Transferability therefore commences in the second year at 10% of the quota allotted and increases by 10% per year until it reaches 90%. This transfer assessment schedule is commonly referred to as the '10/10/10' system.

Under the declining transfer assessment schedule, quota allotted on or after September 1, 2005 is also subject to a 'last in, first out' (LIFO) provision, where the last quota allotted is the first authorized for transfer by the Board.

Exceptions to the declining transfer assessment and LIFO provision include transfers and deemed transfers (as above) to a producer's spouse, child, child and the child's spouse; transfers and deemed transfers to a producer's siblings under circumstances prescribed in the Board's Consolidated Order; and situations involving the formation or dissolution of partnerships or corporations where the producer's interests do not change.

4.1.2 The sum of 10/10/10 based assessments since 2006 equals 239,454 kg of quota as of April 1, 2014. In this same time period, 141,272 kg was collected through the 5% quota assessment which applies to all quota that has not been allocated by the BCMMB. The Board has used the assessed quota, and further quota retracted (or not allocated) from all producers to start a total of 28 new producers through the Graduated Entry Program (GEP) and ensured that production of specialty products was available to satisfy market requirements. Total requirements for the GEP and Specialty producers totaled 644,827 kg, a total of 517,845 kg were available through assessments. Therefore, the current policy has met the objectives of providing quota for production and growth based upon new producers entering the industry (renewal) and support for the Specialty (Organic milk) sector. Since 2006, the Board has allotted 228, 454 kg of quota to the specialty market without dependence on the declining transfer assessment or the 5% assessment. In the 2005/2006 dairy year 81,164 HL of organic milk was produced in the province, in the 2012/13 dairy year 204,640 HL was produced. This growth of 152% over a period of 7 years shows the Boards ability to enable growth through incentive programs and sound governance policies.

The Boards commitment as identified in the strategic plan, is to foster innovation and industry renewal. The Board manages its commitment through reconciling available quota for programs and policies without a reliance on assessed quota to ensure market requirements are met and innovation and renewal are managed.

Although, the assessment policy is effective at preventing windfall profits from quota; it has been noted that this policy objective is in conflict with the additional policy objective for quota production since it can inhibit producers from releasing quota to producers that may be able to start, grow, differentiate through Specialty production or innovate.

These issues were discussed during the two consultation stages and key inputs are provided in the next section.

4.2 Consultation Input and Realistic Alternatives during Finding Solutions

As referenced earlier in *Section 1.0 Distribution of General Allotments*, quota confers both a privilege and an obligation to produce milk upon the producers that hold it.[1] **Holding quota denotes a commitment to being actively engaged in the BC dairy industry.**

Active engagement naturally infers the production of milk and therefore producers who are currently producing milk and participating in the industry generally provided no

[1] See Section 27 of the BCMMB September 1, 2013 Consolidated Order.

strong comments regarding the declining transfer assessment as long as policies like credit transfers, flexibility days and the quota exchange continue to be an option for producers.

Over the last 8 years, key dairy producer organizations in BC have strongly voiced concern with respect to the consequences of applying the declining transfer assessment. With reference to the Quota Policy & Governance Discussion Document, the following points were noted ;(1) challenges for farm management, (2) dealing with shifts in family circumstances, (3) downsizing and retirement, and (4) farm succession.

Session discussions, written stakeholder inputs and regional producer associations provided the following policy proposals during stage 1 and 2 of the consultation;

4.2.1 Change Last in First Out (LIFO) to First in First Out (FIFO)

Although producers recognized the need for some type of assessment policy to fund programs and sustain the industry long-term, the LIFO aspect of the policy creates inflexibility to making on-farm decisions and can create (or restrict) a quota production environment.

The challenge in the discussion surfaced through various regions and producers individual needs. LIFO is a policy that will not impact a producer as long as he/she has cash flow and plans to stay in the industry for a long period of time. However, there are some stakeholders that believe the LIFO provision is in fact having a detrimental effect on the Quota Exchange and on the consistency of milk supply to meet processor requirements on a consistent basis.

Quota availability has been a challenge on the exchange for many years. Although proponents of changing LIFO to FIFO or eliminating the assessment altogether believe it is due to the assessment schedule, others argue it is due to the natural availability of quota (see Section 5 Whole Farm Transfers and Quota Exchange)

Producers who are producing the minimum quota allowable on their farms are limiting the revenue potential for producers willing to increase production. Since this quota is unable to transfer without a penalty to the seller downsizing, the industry loses the production. Without access to quota the end result is lost opportunity for the BC dairy industry.

Therefore the policy change from LIFO to FIFO provides a compromise to those who feel contributions are made to the industry over time and assessments should not impede farm management or succession.

FIFO has benefits to producers who are trying to manage a farm with limited cash flow and have very different needs in their stage of farming. The growth stage in any business practice requires flexibility and cash flow to encourage investment (i.e. quota purchases, equipment etc.) The FIFO mechanism allows a producer to utilize quota that is available and invested and continue to earn the quota that is recently allocated.

4.2.2 Change 10/10/10 to 10/10/5

An adjustment to the declining balance assessment was seen favorable to some stakeholders, primarily changing the assessment rate to 5% at the end of the 10 year earning period. This change would provide consistency in policies on a standard surrender assessment of 5% (C.O. September 2013; Section IV 23(1(A))).

Stakeholders provided mixed feedback to this policy concept. Many supported the assessment policy with no change since if you were staying in the industry the change had no impact, while others felt administratively a change to 5% was logical in the long run and provided more quota to those leaving the industry.

4.2.3 Remove 10/10/10 and LIFO

Proponents of this discussion were adamant that the declining transfer assessment policy is unfair to the dairy industry in the current farming environment. The policy provides limited flexibility and creates challenges for on farm management especially for downsizing purposes.

Others felt this policy had created an unintended consequence in which it created an inflated market value for quota on the quota exchange which was not the original intention of the policy when applied, as it benefits sellers and not producers.

4.2.4 Flat Rate Assessments

Non-supporters of the declining transfer assessment suggested a flat rate assessment on all quota, for example 10%. This type of assessment would allow producers to sell and buy quota as required and still allow the Board to collect the quota needed to fund Board programs and support the industry.

The application of the policy would be on all quota transferred and would likely create the free movement of quota on the exchange. This type of policy is similar to what existed before 2006 with a 5% assessment on all quota.

The Board' considered that a flat rate assessment would not be consistent with the FIRB's objective to limit windfall profits from quota that is not produced It also tends to put a value on quota which is inconsistent with the principle that quota has no value. (See Appendix A)

4.2.5 Status Quo

Lastly stakeholders expressed that the current policy is working for those staying in the industry and changes are not required. <u>The declining transfer assessment only impacts sellers of quota and succession to non-exempt individuals</u>.

Some Producers felt strongly that some type of assessment is required to fund growth programs and the current policy has had a minimal impact on a day to day basis.

Succession planning (see Section 3 Farm Succession) is a direct impact as exempt individuals can receive transfers without the application of any assessments.

Options for on farm management are provided by the Board through the 20 days of flexibility, credit transfers and the quota exchange. Those leaving or downsizing have benefited from the industry and paying the industry through quota assessments is seen as a contribution towards the growth of the industry.

The current policy is applied fairly to all individuals in the province. The intent to encourage producers to produce milk and not sell quota is effective and benefits the industry. Most importantly the policy is transparent, the quota is earned by those staying in the industry over time which provides accountability.

4.3 Board Best- Balanced Recommendations

Rationale: Following a review of all policy proposals with respect to the 10/10/10 declining transfer assessment, the Board reviewed the opportunities and challenges with the current policy and the impact long-term with change. The Board consulted with producer associations and the MIAC for input on the policy suggestions as provided in the paper.

Feedback to the Board appeared clear, the declining transfer assessment policy continues to work in the industry and will continue to work long-term. The consequent of this policy is the transfer limitation to exempt persons (see Section 3 Farm Succession). The opportunity to transfer quota without assessment is currently limited down the family tree from parent to child. This limited list of exempt persons impacts succession planning and that will impact producers in the future as discussed in the previous section.

The key benefit in the expansion of the exempt persons list is the ability to sustain existing farms that may otherwise have no recourse than to sell out of the industry. Through the addition of nieces, nephews and grandchildren, further options are available to the producers of BC and supports the Board's strategic plan goal for renewal of the industry.

In order to maintain the key principles and objectives provided by FIRB over the last 8 years, and to ensure the future of farming in the province can continue with limited hurdles, the Board makes the following recommendation;

The Board recommends no change to 10/10/10 LIFO with extension of the exempt list to include nieces, nephews, and grandchildren (refer to Section 3 for detailed discussion) for renewal of the industry through farm investments or expansion. The Board is confident by combining the two policies, the long term impact to the dairy industry will be positive and will meet the key objectives and principles originally designed for each policy. This best-balanced decision is consistent with MIAC recommendations and rationale provided in Section 3.

As per the above Farm Succession section 3.2.2 extension of the exempt persons list would meet the needs of key principles to enhance renewal through new producers with increased probability of success.

5.0 Whole Farm Transfers and Quota Exchange

5.1 Principles and Objectives of Quota Allocation

The BC Milk Marketing Board (BCMMB) is afforded powers under the Natural Products Marketing Act (NPMA) on behalf of the province of British Columbia (BC). The BCMMB is responsible to provide a mechanism for the transfer of quota.

This responsibility is noted in subsection 7.2 under Board Regulation - Powers and duties of the Board;

> *The board is authorized*
>
> *(b) to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled,*

In addition to the Boards authorization, the FIRB provided direction in its 2006 Specialty Review letter (July 19, 2006) with respect to the quota exchange and whole-farm transfers;

> 17. *FIRB recognizes that the Milk Board has operated a Quota Exchange to provide transparent and equitable opportunity for all producers to offer quota for transfer and to seek to acquire quota by transfer. This approach has had benefits for all producers, particularly those in regions outside the Fraser Valley.*
>
> 18. *The Milk Board is to require all quota to be transferred through the Quota Exchange except transfers for which assessment exemptions are provided at paragraph 24. In addition, the Milk Board may choose to accept a whole-farm transfer (milk production unit and quota) from the exchange when the farm and quota stay intact. In this situation, the transfer assessment provisions still apply except as provided in paragraph 24.*

As per the Boards requirement, the BCMMB coordinates the transfer of quota between producers through a Quota Exchange system on which, barring any exceptions all quota must be transferred through this mechanism. A Conventional and Specialty exchange are available to producers to transfer quota. The whole-farm transfer policy provides a transfer mechanism in which the milk production unit and quota can stay with the originating farm.

In developing the current quota exchange (established February 2010), the primary intent of the policy was to remove the ability to manipulate price and the settlement of quota on the exchange. The previous model which emanated a free market approach actually had the opportunity for undue influence from time to time. Based on feedback from stakeholders, the Board, staff and Quota Exchange Committee designed an exchange that is fair, equitable and transparent to all producers within the industry as per FIRB direction.

The evolution of the whole farm transfer policy (established November 2011) followed a similar trend. During the spring of 2010, transparency and equity concerns surfaced through stakeholders to the Board. The message was consistent, the policies attached to whole-farm transfers required tightening in order to meet the intention of supporting producers to purchase farms for long term succession and to ensure the availability of quota on the quota exchange for all producers.

The current policy is designed to support renewal and to sustain efficient farming, allowing the purchase of a whole-farm (land, cows, and equipment) with the eligibility to purchase 50% of the quota available after all assessments and retractions are taken. The remaining 50% is to be sold on the quota exchange.

5.1.1 Whole-Farm Transfers

The current whole farm transfer policy is intended to support producers purchasing farms for long term succession and to ensure the availability of quota on the quota exchange. The policy has been designed to support renewal and to sustain efficient farming.

The Board suspended the previous whole-farm transfer policy in April 2010 and committed to consult with producer organizations to develop a policy that would allow permissible whole-farm transfers going forward.

The Quota Exchange Committee was tasked with the development of a whole-farm transfer policy in 2010. The committee engaged in discussions for several months focusing on parameters for transfer, legal requirements and if production time limits should be applied as part of the policy. In addition to committee discussions, regional producer organizations were contacted to provide feedback on policy parameters.

The Board received the recommendations of this committee and applied the policy in the fall of 2011 after significant debate. Two significant differences were applied; land had to be owned to conduct the transfer and the Board had to review any whole-farm transfer applications with the option for formal legal review if required. To date 5 transfers have been applied to and approved by the Board. Several whole farm transfer exemption requests have been denied by the Board.

For clarity, the Boards current policy is that 50% of the CDQ must transfer on the Quota Exchange, while the remaining 50% may be sold as a 'going concern' to a single transferee provided it is accompanied by the transferor's interests in the land, dairy farm, buildings, facilities, equipment, and dairy cattle associated with that CDQ. (See Appendix H; Section IV 18(2))

5.1.2 Quota Exchange

The Board developed and applied an exchange model with parameters that support principles that support and sustain new and existing producers, provide equitable quota allocations and enable some flexibility for farm management. Parameters include, one clearing price for all producers, a pro-rata methodology of settlement to sellers, and a monthly application of the exchange.

To assist with the smooth transfer of quota amongst producers and to minimize the opportunity for price manipulation, a market clearing price for quota is calculated prior to each exchange. On the March 2014 conventional quota exchange, the market clearing price was $43,000 per kilogram of CDQ. The market clearing price for specialty quota will always be set at the current price of the conventional exchange for the month in which the sale will occur.

According to the rules established by the Board, persons interested in selling quota must complete an offer to sell, which may contain quota ranging from a minimum of 0.1 kg CDQ to the total amount of CDQ the producer has available for transfer. Persons interested in purchasing quota must complete an offer to buy, which may contain quota ranging from a minimum of 0.1 kg CDQ to a maximum of 30kg CDQ.

If there is insufficient CDQ subject to offers to sell in any monthly exchange to meet all offers to buy, then the available CDQ transfers to producers on a percentage basis. For example, if there is enough CDQ contained in the aggregate of all offers to sell to fill 95% of offers to buy, then each offer to buy will be 95% filled.

To facilitate their access to quota, participants in the GEP as well as other new entrants (i.e., those entering the industry by purchasing quota) may each apply to the Board to be granted priority status on a monthly exchange. Where such status has been granted, offers to buy will be 100% filled up to a maximum of 5.5 kg CDQ for GEP participants, and a maximum of 13.7 kg CDQ for other new entrants, prior to filling other offers to buy in that monthly exchange. The Board also provides for a one-time priority access to 13.7 kg CDQ for CIP participants.

The Board continues to review recommendations from the Quota Exchange Committee which meets quarterly (if required) to monitor the exchange.

As per the Consolidated Order, exceptions to the requirement that quota be transferred on the exchange include transfers to a producer's spouse, child, child and the child's spouse; deemed transfers, which represent a change in the interests held by producers in a partnership or a corporation; and reallocations of quota amongst multiple dairy farms operated by a given producer. In such cases, transfers will be considered upon application to the Board.

5.2 Consultation Input and Realistic Alternatives during Finding Solutions

During the consultation sessions, dairy industry stakeholders have suggested that the volume of quota available on the Quota Exchange has been quite limited in recent years. Some producers suggest that this limited availability results from the declining transfer assessment schedule applied to quota transferred on the Exchange, which is considered a disincentive to use of the exchange and encourages producers' reliance on whole farm transfers instead.

Producers also appear to be bidding up the market price of quota on the exchange through the value established when quota is transferred, which in turn results in a financial issue to those farmers that are seeking to expand, especially new entrants and smaller producers. Other comments suggested the lack of quota available for sale is a national issue and other provinces have similar volumes offered for sale on the exchange.

At every regional meeting, the Board received strong input that the Ontario model of a price cap on quota has been unsuccessful since the available quota in Ontario is less than BC and market price of quota in Ontario has been transferred to other components of the farm such as land value or machinery or cows as an overall part of the purchase agreement. This type of model can create transparency concerns within the industry.

The current whole-farm transfer policy is another area of debate within the industry. Many stakeholders support the policy as in theory it helps encourage quota onto the exchange and facilitates expansion of existing farms, others suggest that the policy makes it difficult to access sufficient financing to purchase the farm in question. In each case, stakeholders have suggested that there is a need for policy changes to offset the accelerated farm consolidation that larger operations' relatively greater access to capital may be causing.

5.2.1 Whole Farm Transfer

5.2.2 Keep 100% of the quota on the Farm

A consistent input from many stakeholders with respect to the current whole farm transfer policy, was the inefficiency of transferring 50% of quota off the farm. The policy impacts small and mid-size farms significantly different from larger operations. The requirement to transfer 50% of the quota on the quota exchange immediately devalues the sale especially if the producer planned to purchase the farm and run it independently. This policy only becomes efficient in the case of merging the newly acquired farm and quota with the producers existing farm and quota. Many producers argued that in order for a whole transfer to be effective 100% of the quota should be allowed to transfer.

The risk from a policy perspective to provide the opportunity to keep 100% of the quota when conducting a whole-farm transfer, is the merging of quota (same ownership), the quota availability on the quota exchange may decrease significantly and lastly all producers would not receive equal opportunity to have access to quota.

The previous policy allowed a 100% transfer of quota with the farm, but producers argued at that time that the policy was unfair as quota was being transferred off the exchange and there was no transparency or equity in the industry as to who was obtaining quota. More importantly, as the majority of transfers occurred in the Fraser Valley, producers in other regions were unable to have access to some quota.

Through the discussion sessions, regional webinar and committee meetings the message was consistent, the current policy is working for the accumulation of quota on the home farm; however, there is a need for a policy to acquire and sustain 100% of the quota on an independent farm.

5.2.3 Allow the merging of the newly acquired farm and quota with the producers existing farm and quota, after a period of time

Another option that was contributed through discussion was to allow 100% transfer of quota with the whole farm and restrict any mergers for a period of time. For example, it could be mirrored similar to the declining assessment policy that is after 10 years a merger could occur without any assessment.

A time restriction creates a few minor concerns; the first is the administration aspect of the policy. The file would need to be monitored to allow no transactions that could allow the addition of quota through a family transfer or quota from another farm (same ownership). The BCMMB staff monitors GEP files, Innovation producer files, Specialty files and so on. The creation of policy layers creates the opportunity for exemption or special consideration by the Board as standard policy practices don't generally cover these groups off.

Another issue with this type of policy is that it can interfere with efficiency. It is difficult for the Board to monitor standard business practices as the Board can create policy for quota not for the business structure of the farm. Producers may argue that to restrict the amalgamation of quota after several years of farming is inefficient and a burden in the industry. The Board must consider whether it's more important to have 500 farms or 450 efficient farms.

5.2.4 Change the 50/50 policy to 25/75

Many producers supported the current policy for whole farm transfers but did provide feedback that smaller farms were at significant disadvantage under this policy. The issue is that smaller farms that have 40 to 50 kg/day are not able to participate in a whole-farm sale as the amount of quota available after all applicable assessments and retractions is not beneficial for purchase to most buyers.

In these situations a 50/50 split on the quota is detrimental and a discussion to change to the ratio to 25% of the quota on the exchange and 75% on the farm to provide more opportunity to smaller farms surfaced. This type of policy change would likely result in less quota availability on the exchange and may still not make a smaller farm more competitive.

5.2.5 Use 50/50 if merging of the newly acquired farm and quota with the producers existing farm and quota occurs

Lastly, suggestions to apply the 50/50 provision only if a merger occurs were discussed. In this case, the Board could allow 100% of the quota to transfer to another farm as long as the quota did not merge with another farm (same ownership). This type of policy would require the Board to apply specific policy regarding family transfers, i.e. should these types of exempt transfers be allowed to occur under these circumstances?

Lastly, the policy would require an expiry clause as suggested in section 5.3.2. A time period for the operation to operate independently.

5.2.5 Quota Exchange

5.2.7 Not Enough Quota on the Exchange

Two schools of thought were present with respect to the current quota exchange. Although most producers agreed the exchange is running well operationally and there was no need to change the model, a significant concern appeared to be the lack of quota on the exchange. Suggestions from stakeholders to secure more quota on the exchange included changing the declining transfer assessment from LIFO to FIFO; removing the assessment; keeping the current whole farm transfer policy and removing the 5% assessment on the quota exchange.

The concern with changing the retraction policy is simply another policy would be required to ensure producers receiving quota allocations are producing the quota and not profiting from not producing quota. Quota allocations are a privilege and a requirement to produce milk, profits should be obtained primarily from the production of milk from the quota and not just the sale of quota. The current policy provides stability to those staying in the industry not to those leaving the industry. The policy meets the principle to sustain current producers and enable growth through renewal of the industry with new producers.

By maintaining the current whole-farm transfer policy, producers felt encouraged that some quota would be added to the exchange in the event of a transfer. This policy supports the FIRBs requirements that all producers have equal access to quota.

Another group felt that the lack of quota was a national issue and that other provinces faced a similar issue therefore the removal of the retraction assessment would likely not create more quota on the exchange. There simply is not enough quota available at this time to satisfy expansion demands.

The March 2014 quota exchanges for the following provinces show us that most of the west and Ontario appears to have similar volumes on its exchanges.

BC 210 kg/day

AB 257 kg/day

MB 259 kg/day

ON 188 kg/day

With respect to quota availability, if a producer had CDQ of 100 kg/day on January 1, 2013 and submitted the maximum bid of 30kg/day on each quota exchange in 2013, the producers new CDQ at December 31, 2013 including Feb 1 General Reduction of 0.6% and September 1 general allocation of 1.5% would have been 121.32 kg/day. This would be a 21% increase in quota on the farm over one calendar year. Although financially an average farm may not have the ability to place a max bid on the exchange, a portion of 25-50% of this value still constitutes respectable growth over a calendar year.

5.2.8 Change how bids are filled

The current exchange is filled on a pro-rata basis satisfying all sellers. Comments regarding this model were favourable as the exchange appears fair, transparent and equitable. However some producers vocalized the disparity in the model for smaller producers and the need to fill a higher percentage of smaller bids through a **bottom up system**.

In this type of application, an equal portion of quota is made available to all bidders.

The exchange would operate in tiers, for example if the lowest bid was 5 kg/day all producers on the exchange would receive this amount (if available). If the next bid was 7 kg/day, all producers would receive 2 kg/day (difference between 5 and 7kg/day) and so on as long as there was quota availability. Once the quota was reduced to an amount where an equal share could not be provided to all bidders, the quota would revert back to a pro-rata allocation. Proponents of this model were confident that this system would provide a true reflection of demand on the exchange as the desire to place a maximum bid would be removed and smaller bids would be filled in their entirety in a faster process.

The bottom up system can be compared to the request to apply quota allocations on a 50/50 basis. Both policies favour a specific group of producers which results in differential policy practices for the industry. The Board must design policies that are applied to all producers using the principles of fair, equitable and inclusive. By benefiting a specific group, the Board would likely hear arguments for exemptions which almost always results in new policy layers.

5.3 Board Best –Balanced Recommendations

After reviewing all comments and concerns with respect to whole-farm transfers and the quota exchange during stage 1 and stage 2 of the consultation, the Board consulted with the QEC on January 16, 2014 as this committee was involved with the development and recommendation of both policies in the past and continues to monitor the current exchange model and whole-farm transfer policy. The Board also consulted with all regional associations and reviewed each group’s position with respect to each policy.

5.3.1 Quota Exchange

Rationale: Although the “bottom-up” model provided some clear benefits to smaller producers on the quota exchange, following the review of all comments and the in-depth discussion with the QEC, the QEC did not recommend the “bottom-up” model. The Board did not receive significant support through the form of feedback that warranted change to the current exchange model. Producers at the sessions in stage 1 supported the current model but were concerned about the availability of quota. With the support of the QEC and four of six regions, the Board provides the following recommendation;

The Board recommends no changes be applied to the Quota Exchange at this time.

The Board has determined that the current QE model is fair, equitable, and transparent and meets the current objectives of quota transfers in the province. The model is consistent with the FIRB's direction and provides equal access to quota for all regions and allows all producers to bid in a transparent manner. Although the claim is there is limited availability of quota, based on the example of a 100 kg/day dairy there appears to be opportunity to increase production through consistent bids on the quota exchange.

5.3.2 Whole-farm Transfers

Rationale: Following the Boards consultation with respective stakeholders two thoughts were clear, the current policy works for growth opportunity and that there is a need to develop a mechanism to allow 100% of the quota to remain with a whole-farm transfer. With the support of the QEC and five of six regions, the Board provides the following recommendation;

The Board recommends the following policy for whole farm transfers:

1. **Continue to apply the current whole farm transfer policy in which 50% of the quota remains with the transfer and 50% is sold on the Quota Exchange after all relevant retractions and assessments are taken.**

2. **In the event a whole farm transfer is purchased with the intention to keep 100% of the quota on the farm, this farm should be advised the following policy parameters;**

    a. **No merging of quota with any other farm (same ownership) or quota (includes family transfers) for a period of 10 years;**

    b. **Should any of these parameters be violated during the 10 year period, the 50/50 transfer policy will be applied at the next available date.**

Although the reasons for creating the current whole-farm transfer policy have not changed the opportunity to create a policy that will support the maintenance of current farms and facilitate the renewal of the dairy industry through new producers having the opportunity to purchase existing farms with quota is a clear benefit.

6.0 Specialty Production

6.1 Principles and Objectives of Specialty Production

In 2005, the FIRB provided the results of what is commonly referred to as the Specialty Review throughout this paper. The directives that resulted from this review provided principles in the area of specialty (organic) production to all Commodity Boards and Commissions.

Specifically, the designation of the specialty market; the allocation of quota and its transferability; production; marketing; levies ; new entrant opportunities; and the creation of an advisory committee.

The BCMMB adopted these directives and developed formal policies for specialty milk production. In 2009, the Boards first Specialty Production Guide was released which provided a summary of specific operational policies for producers and processors participating in the specialty market. The document is reviewed by the Specialty Production Advisory Committee (SPAC) periodically to provide new recommendations to the Board. The most current version, now titled the CDQ Guide for Specialty Production was developed in 2012. (See Appendix M)

The key principles and directives from the 2005 review are provided below for reference.

5. For all specialty and new entrant quota issued on or after the implementation of the specialty and new entrant programs, the Board should institute the declining transfer assessment schedule.

9. The Board should develop allocation procedures to ensure the TPQ received from CDC is distributed among the mainstream and organic quota accounts based on differential growth in each market segment.

10. The Board should allocate the quota earned from the CDC pursuant to organic milk DDPIP initiatives to the organic quota account.

12. DDPIP organic milk producers should receive organic specialty quota equal to their 12 month production ending December 31, 2004.

14. The proposal to issue up to 7,000 kg of organic quota to existing organic milk producers using mainstream quota for organic milk production is acceptable on a one-time basis to assist increased organic milk production quickly to meet current demand projections.

15. The Board should only provide incentives to get mainstream quota holders to convert to organic milk production if organic milk demand cannot be met by the other programs, including the GEP. The incentives offered to mainstream producers to convert to organic milk production should be limited to the 5/2/2 organic quota incentive and should not include payment of the organic milk price premium during transition.

16. The Board should not proceed with organic milk premium pooling until it can be shown that the organic milk producers are in favour of changing from direct processor contracts to a pooling system.

17. Transport pooling should be considered only if organic milk producers are in favour of such pooling.

18. The Board's Graduated Entry Program (GEP) program should continue unchanged except that organic milk entrants should be given priority when there is an unfilled organic milk demand, and incentive quota issued should be transferable. The Board should not subsidize the organic milk premium during transition.

20. A Specialty Markets Advisory Committee should be established and comprised of an equal number of organic milk producers and processors, a member of the Board, and an independent Chair appointed by the Board. Clear terms of reference for the Committee should be established.

21. The Board should take steps to build trust with specialty producers.

Following the 2005 Specialty Review, the FIRB provided further direction to each commodity Board on its expectations with respect to the implementation of specialty policies. These are outlined below for reference;

<u>Designation of Specialty Products</u>

1. FIRB agrees that currently only organic milk is qualified to be designated as specialty for quota management and administration purposes. FIRB also agrees that production changes restricted solely to "feeding and husbandry programs do not [necessarily] confer specialty status on milk." (Milk Board letter dated April 13, 2006).

2. The Milk Board, with input from the Specialty Milk Product Advisory Committee (SMPAC), is to establish criteria providing for the designation of other specialty milk in the future. These criteria are to be established by July 31, 2007.

<u>Allocation</u>

6. FIRB recognizes the Milk Board has proposed to provide for growth in supply of organic milk by providing Graduated Entry Program (GEP) priority to producers intending to produce organic milk and by authorizing holders of Total Production Quota (TPQ) to convert from mainstream milk production to organic milk production.

7. FIRB recognizes the Milk Board has proposed to allocate quota pro-rata among all quota classes – TPQ and Specialty TPQ (STPQ).

8. In accordance with FIRB's September 1, 2005 directions, the Milk Board is to "establish principles and procedures for distributing the provincial allocation…to the different [classes of quota] based on differential market growth." [emphasis added] Accordingly, the Board is to provide for a reasonable differential growth spread between TPQ and STPQ in making *allocations to meet specialty market requirements. For clarity, allocation is to be pro-rata within TPQ and STPQ classes, but not necessarily between them.*

Conversion from Mainstream to Specialty Production
9. FIRB accepts that mainstream producers holding TPQ should have the opportunity to produce for specialty market segments subject to certain conditions.

10. The Milk Board is to provide opportunities for holders of TPQ to utilize some or all of their TPQ for the production of specialty milk subject to there being unfilled market demand after new entrants have been selected on the basis of the specialty priority and after existing holders of STPQ have been allocated growth in accordance with differential allocation procedures as outlined in paragraph 8 above.

11. FIRB supports the Board's approach of having the SMPAC provide input on requests for holders of TPQ to utilize their quota to produce specialty milk.

12. FIRB approves that holders of TPQ authorized to produce specialty milk will retain their rights to produce mainstream milk and transfer their quota as TPQ, subject to any time conditions applied by the Milk Board to their specialty production authorization.

13.The Milk Board is to establish, in consultation with the SMPAC, clearly defined procedures by which TPQ holders may be approved to convert back to mainstream milk production. These procedures must not cause short term supply shortages in the specialty milk segment.

Pooling of Specialty Production
14. FIRB accepts that pooling is fundamental to the current management and administration of the milk supply management system in B.C. and Canada.

15. FIRB accepts the Milk Board's proposal that organic milk should be pooled. The Milk Board may proceed with pooling as proposed, including pooling of premiums and requiring 95% premium guarantee from processors, and subject to meeting any requirements of producers, processors and the Board necessary to retain the integrity of the organic milk.

16. Nevertheless, FIRB is of the view that pooling of future innovative production or new types of specialty production should not occur until such time as the Milk Board determines it is warranted by sustainable market demand.

Quota Transfer Assessment
22. All quota realized by the Board from assessments is to be made available for the New Entrant Program, the Cottage Industry Program, and new product/market innovations. For clarity, quota realized from assessment is not to be redistributed among existing quota holders until adequate quota has been provided to all other programs and then only in accordance with the allocation criteria, including supplying B.C.'s specialty markets with B.C. production and providing for differential growth between TPQ and STPQ. The criteria by which these allocations are determined must be prior approved by FIRB in accordance with the September 1, 2005 directions.

New Entrant Programs

36.The Milk Board is to issue invitations based on providing priority to applicants planning to produce designated specialty products, subject to there being unfilled market demand, and to applicants planning to produce outside the Fraser Valley. The Milk Board should also require that there be a demonstrated milk transportation plan either to a regional processor or in conjunction with other regional producers shipping jointly outside the region.

Specialty Milk Products Advisory Committee

38. FIRB accepts the Milk Board's approach to the Advisory Committee, subject to the Board ensuring that, at all times, the majority of members on the Committee represent specialty and CIP producers and that the Board member on the Committee be non-voting.

39. FIRB requires that the Board consult with specialty and CIP producers to determine their preferred appointee(s) prior to making any final appointments.

40. FIRB encourages the Milk Board to consider appointing an independent Committee Chair only if the industry members appointed by the Board are unable to agree to nominate a Chair from among themselves.

41. FIRB encourages the Milk Board to establish the SMPAC as soon as possible, and requests that the Board communicate its membership to FIRB at its earliest convenience.

42. FIRB encourages the Milk Board to establish at the outset, or charge the SMPAC with establishing, clear Committee procedures concerning meetings, quorum, decision-making, voting, minutes, and reporting to the Board.

6.1.1 The Specialty Production Market

As per the 2005 Specialty Review**, designated specialty products are to respect the principles of farm-based differentiation with identity preservation, marketing and representation of the unique farm based attributes to the end consumer. The designated product should also require extra effort to produce and market and it should receive market price premiums. The designated product will almost certainly require extra effort to produce and market and, as a result, should receive market price premiums.**

Specialty production accounts for approximately 3% of the total BC production. The production primarily services a Classes 1 and 2 (see Appendix I). The Board recognises the organic certification provided by an independent certifying body for the purposes of production but does not warrantee any milk type.

The market originated in BC through innovation in the early 2000's and has developed into a stable market for the consumers of BC. As noted earlier in the paper, organic production has more than doubled over the last 10 years with five major processors driving the market. In addition to retail, many artisan producer/ processors produce and develop organic products for niche markets through other innovation programs.

With reference to the initial discussion paper provided to stakeholders prior to the consultation sessions (see Appendix B), the Board has developed policies and process to support the specialty market over the last 8 years.

Alongside the pro rata distributions, the Milk Board currently uses a three-step system to address differential growth in specialty relative to conventional markets. The system hinges on milk vendors (processors) submitting three-month forecasts of their production requirements to the Milk Board in February, May, August, and November of every year. The Board then pursues a series of measures to fill the specialty market:

a. First, the Milk Board will invite potential candidates from the Specialty Industry Production Wait List to commence specialty production.

b. Second, the Milk Board will consider any expansion requests from existing specialty producers, who, if such requests are granted, must purchase quota through the conventional quota exchange, specialty quota exchange, or a whole farm transfer, or must transfer it from any existing conventional farm they may own.

c. Third, the Milk Board will issue a sleeve allowing existing producers to engage in additional specialty production (calculated as a percentage of their CDQ) without purchase of quota. Periodically, the Board facilitates the permanent allocation of this sleeve into quota by providing specialty producers with priority access to the Quota Exchange and/or allowing transfer in of CDQ credits from the conventional pool (see 'Credit transfers', below).

In recent years, this three-step process has proven effective in addressing the demand for specialty products in the province, meaning that the Milk Board has been able to continue to distribute general allocations on a *pro rata* basis to conventional and specialty producers alike, rather than implementing differential distributions.

Although some industry stakeholders suggest that the current system provides 'preferential treatment' to specialty producers, the need for addressing differential market growth is fundamental to responding to consumer demands, maintaining public support for the industry and facilitating expansion of the sector overall.

Specialty producers suggest that investments made to service the sleeve need to be recognized through the quota crystallization process, and that the current system allows for a timely and flexible manner of addressing specialty market demand, while balancing the need to increase the number of operating specialty producers with the need to expand existing farms in what is still a developing market.

6.2 Board Best –Balanced Recommendations

Rationale: The policies developed have respected the principles and directives provided by FIRB listed above and created significant growth opportunity within the specialty sector.

Through the SPAC, the Board works closely with organic and conventional producers and processors to identify the needs of the specialty market. This committee has provided the forum for opportunity to build trust and transparency with the specialty market.

During stage 1 of the consultation sessions, limited to no discussion surfaced with respect to quota policies in the specialty market. The only concern from some stakeholders addressed the Boards transparency with respect to the calculation of the specialty sleeve. As explained in the section above through the policies to add new qualified entrants, and allocating required additional production through the form of a sleeve, the Board meets the demand of the processing market as per the Boards mandate to supply the market and support innovative markets. The sleeve is a tool utilised to meet market demand as required.

The current policies and process in the specialty production market are working well addressing a fair and equitable entry in to the market and distribution of quota. **The Board is recommending no changes to policies in the specialty market at this time.**

7.0 Cottage Industry Program

7.1 Principles and Objectives of the Cottage Industry Program (CIP)

The key principles and directives from the 2005 review are provided below for reference.

8. The Cottage Industry Program should be amended to meet the requirements of a small herd program to manage on-farm, value-added manufactured milk production or heritage breed needs.

Following the 2005 Specialty Review, the FIRB provided further direction to each commodity Board on its expectations with respect to the implementation of CIP policies. These are outlined below for reference;

22. All quota realized by the Board from assessments is to be made available for the New Entrant Program, the Cottage Industry Program, and new product/market innovations. For clarity, quota realized from assessment is not to be redistributed among existing quota holders until adequate quota has been provided to all other programs and then only in accordance with the allocation criteria, including supplying B.C.'s specialty markets with B.C. production and providing for differential growth between TPQ and STPQ. The criteria by which these allocations are determined must be prior approved by FIRB in accordance with the September 1, 2005 directions.

26. The Milk Board is to provide for the establishment of a minimum of one new CIP producer annually.

27. The Milk Board is to give first priority to CIP applicants planning to produce and process designated specialty milk or produce new, innovative processed products, second priority to applicants planning to produce outside the Fraser Valley, and third priority to applicants planning to produce inside the Fraser Valley.

28. In the event that there is more than one eligible applicant in a year and the Milk Board has insufficient quota realized from assessments to fund more than one new CIP producer, the Board is to establish waiting list procedures based on principles similar to those provided for the New Entrant Program.

29. Successful CIP applicants are to be provided up to 10,000 kg of TPQ or STPQ, depending upon the type of milk planned to be produced. This quota allocation is to be subject to the 10/10/10 transfer assessment rule and is to be transferable off the site after 15 years of use by the applicant. For clarity, quota issued under the CIP program may be transferred with the business, including the fixed assets, during the first 15 years after issuance and would be subject to the 10/10/10 quota assessment during this time. After 15 years, the quota may be transferred independently of the fixed assets, and would be subject to a 10% assessment at that time in accordance with the 10/10/10 quota assessment schedule.

30. The Milk Board is to consider a plan for authorizing CIP producers to purchase milk either from the Board through the pool or by direct local contract for the purpose of growing their processed milk products business. FIRB requires the Board's proposal in this regard not later than October 31, 2006.

7.1.1 Cottage Industry Program

The Milk Board's Cottage Industry Program (CIP) aims to facilitate small scale, on-farm production of consumer-ready manufactured dairy products. It also includes provisions to support the production of fluid milk in specified 'Remote Regions' of the province.

CIP participants can obtain a minimum of 4.1 kg and a maximum of 27.4 kg of CDQ from the program, with their allotment being transferable only as 'Going Concern Sale' for 15 years following the initial allotment. Producers may also purchase additional quota on the Quota Exchange, where they obtain a one-time priority access. Finally, CIP participants may also receive milk from a third party subject to conditions set by the Board. Allotments under the CIP are obtained from transfer assessments.

There are currently 4 CIP operations in BC. The small scale on farm requirements for processing creates a niche market of participants for this program.

With reference to the initial discussion paper provided to stakeholders prior to the consultation sessions (see Appendix B), dairy stakeholders suggested that there is a lack of familiarity with the CIP among existing and prospective industry participants, with some saying the program was underutilized as a result.

The majority of stakeholders recognize that the CIP fills an open market, helps provide for small innovators as a complement to large producers and processors, improves sales across the sector, and draws positive attention to and secures public support for the dairy industry.

Many stakeholders noted the need to improve transparency around the program to avoid a perception of misuse. Stakeholders also suggested that the program (or similar programs) could be made more accessible to existing producers that are interested in pursuing on-farm processing for local consumption.

However during stage 1 of the consultation discussion sessions, limited discussion and comments took place with respect to the Cottage Industry Program.

One concern reflected options for a CIP participant that has outgrown the program. The Board addressed this issue and changed the Consolidated Order in September 2013. A CIP participant is able to purchase quota on the Quota Exchange and also purchase milk from the BCMMB as required. These two policies allow the participant to determine how to grow the operation (i.e. from the production or processing side).

Another concern was the limitations of a Class D license (see Appendix F). With respect to licenses, the BCMMB has classes of licenses that allow for processing and production complementary to product types listed in the milk classification system. The CIP was designed to have a limited scope as the intention of the license was to support an artisan type program that would encourage innovation to local markets. Therefore a Class D Producer Vendor licence has very specific conditions that must be complied with in order to receive the quota allocation by the Board.

A Class A (fluid processing) and/or B licence (industrial processing) coupled with a Class C licence (producer) provides flexibility desired in most large scale operations or operations that cannot accommodate the conditions stated in the Class D licence.

The CIP was not discussed in any detail during the face to face discussion sessions and feedback was limited throughout the consultation.

7.2 Board Best –Balanced Recommendations

Rationale: During the 2013 calendar year, the Board revised the CIP and provided participants that have grown to the maximum volume the program was designed for options to continue to operate under the program. The Board also provided provisions for remote operations wanting to pursue fluid production and processing. These changes were incorporated in the BCMMB Consolidated Order dated September 1, 2013 (Part II (Licencing) and Schedule 2 (CIP)).

As referenced earlier, the CIP was not a primary topic of discussion throughout Stage 1 and 2 of the consultation. The policies that pertain to this program address a small group of producers and comments made have been addressed by the Board in a fair and equitable manner. The current policies are working well and options for CIP participants are available with respect to future growth. **The Board is recommending no changes to policies to the Cottage Industry Program at this time**

8.0 Lifestyle Milk and Innovation Policies

8.1 Principles and Objectives of Lifestyle Milk

The key principles and directives from the 2005 review are provided below for reference.

> *13. Quota amounts above the December 31, 2004 amount that are produced and earned through the DDPIP program between January 1, 2005 and the end of each DDPIP contract should be produced, if possible, by the existing contractors up to the end of the DDPIP contract. At the conclusion of each contract, the amounts above that issued as quota based on production up to December 2004 should be retracted over a reasonable period of time.*

Following the 2005 Specialty Review, the FIRB provided further direction to each commodity Board on its expectations with respect to the implementation of Lifestyle milk and innovation policies. These are outlined below for reference;

> *<u>Innovation</u>*
> *3. The Milk Board has been a leader among the supply managed sectors in fostering innovation through a national program known as the Domestic Dairy Product Innovation Program (DDPIP).*
>
> *4. In accordance with FIRB's September 1, 2005 Directions, the Milk Board is to establish policy and procedure "for the pursuit of new and innovative product/market segments in the future" where such new innovations may not qualify to be designated as specialty products.*
>
> *5. FIRB requires the Milk Board to have a provincial program to stimulate and promote innovative approaches to producing and marketing milk that have the potential to create sustainable demand for milk produced in B.C. This program may build on the DDPIP; however, the DDPIP program may not be the sole vehicle for promoting innovation in milk production and marketing in the province. FIRB requires the Board to provide a report, together with any necessary Consolidated Order amendments, to FIRB concerning measures it is taking or plans to take to promote innovation by July 31, 2007.*
>
> *<u>Permit Conversion.</u>*
> *31. In accordance with FIRB's September 1, 2005 Directions, existing specialty, DDPIP, CIP or other permits "are to be converted to quota of a class applicable to the type of product produced, … [and] … production volumes recognized for quota should be equal to the permittee's production in the twelve (12) months ending December 2004, or the nearest applicable quota period ending after December 2004."*
>
> *32. FIRB requires the Milk Board to submit a detailed report outlining the permit conversion criteria applied together with the details proposed for each producer utilizing the DDPIP and/or CIP programs. This report is to be provided to FIRB no later than October 31, 2006.*
> *33. FIRB will review the proposed conversion details and either approve them as submitted or direct alternative approaches.*

Over the past number of years, some form of a national innovation program has been made available to marketing Boards across the country. The most recent program to conclude was the Domestic Dairy Innovation Program.

8.1.1 Domestic Dairy Product Innovation Program (DDPIP)

The Domestic Dairy Product Innovation Program was designed to grant flexibility to the National Milk Marketing Plan by providing a mechanism whereby those who wish to produce new and innovative dairy products (as defined in the CDC Act) can access the milk they need outside of existing provincial plant supply allocations. Only industrial products qualify under this program not fluid milk.

By encouraging innovation and new products, the expectation is that the overall demand for milk is expected to increase. The program was national and administered by the Canadian Dairy Commission.

DDPIP applications were made only by processors and applications were reviewed and approved by a DDPIP Selection Committee made up of representative from the east, west, Ontario, Quebec, Dairy Farmers of Canada and the CDC.

The Board created an innovation program within the province that encouraged both smaller and larger processors to participate in opportunities within the realm of innovation based on the FIRB's directives of 2005 and 2006.

The challenge from this program was managing the milk supply to a processor when production was provided through an individual producer with a unique milk type. Policies developed to aide innovation were viewed as non-transparent or inequitable to the general producer body. The concept of differential policies to support innovation was deemed unfair.

The Board dedicates significant time and resources to manage innovation within the province and continues to develop policies to support the innovator and the producer.

The program has been successful for the province of BC, with BC being a leader of innovative products in western Canada. To date BC has earned 186,516 kg of quota through the DDPIP with several contracts yet to expire.

The DDPIP was completed on July 31, 2013 and no new applications were accepted following this date. Contracts started under the DDPIP will continue and complete on the noted expiry date. The program has been replaced by the Diary Innovation Program (DIP).

8.1.2 Domestic Innovation Program (DIP)

The Canadian Dairy Commission created the Dairy Innovation Program (DIP) on August 1, 2013 to replace the Domestic Dairy Product Innovation Program (DDPIP). Similar to the previous innovation program, the DIP is designed to grant dairy processors with continued access to the milk they require to encourage the development of innovative dairy products and to stimulate the overall demand for milk.

The main difference between the former program and the current program is simply quota. In the former program, the CDC allocated quota based on processor utilization in the final year of the contract from a national reserve to the province. In the current program, there are no quota allocations. Applicants (processors) have the opportunity to process innovative products and as long as those lines are successful, they can continue to utilise the opportunity indefinitely (if national contract, provincial contracts are limited to 3 years).

8.2 Board Best –Balanced Recommendations

Rationale: The Board did not receive any comments in stage1 or stage 2 of the consultation that pertained to the innovation programs or their policies. In 2013, the Board added a Lifestyle Milk category to the consolidated order. This category of milk was intended to identify milk that has a nutritional ingredient that segregates it from standard conventional milk. Any milk in this category would be deemed innovative.

Due to the change in the national innovation program, the Board is currently developing policies that will complement the new Dairy Innovation Program as the former policies were intricately tied to quota and cannot apply going forward.

As the policies for Lifestyle Milk and Innovation are currently under development and no feedback or comments were provided to the Board during the consultation, **the Board has no recommendations for Lifestyle milk and innovation at this time. The Board will provide FIRB with policies as they are developed.**

Summary of Recommendations

Section 1.0 General Quota Allocation

1.4.1 The Board recommends the distribution of general allocations remain on a pro-rata basis in order to meet the principles and objectives of the quota allocation policy. This best-balanced decision is consistent with MIAC recommendations.

1.4.2 The Board recommends no application of differential allocation policies in order to meet the principles and objectives of the quota allocation policy.

Section 2.0 Graduated Entrant Program

2.3 The Board recognizes the 42 wait list candidates and recommends invitations be provided to all 42 candidates immediately advising of a start date within the next 5 years. All potential candidates will be required to start in a staged priority approach within the five year period, no extensions will be provided beyond 2019.

The Board recommends the following program parameters for a new Graduated Entrant Program;

1. Producer selection will take place through a lottery system administered by an independent Audit firm as directed by the BCMMB.
2. Potential candidate must reside in BC and be the age of majority to apply
3. 3-5 Candidates will be chosen per year as directed by the BCMMB
4. $10,000 deposit required if selected
5. Program length will remain 10 years
6. Initial allotment will remain 13.7 kg/day
7. Matching quota will be increased to a maximum of 13.7 kg/day
8. Declining Transfer Assessment will continue to be applied to all quota
9. No exempt transfers will be permitted for a period of 10 years
10. The farm production unit must be on a new location

3.0 Farm Succession

3.3 The Board recommends a change to current policy to extend the exempt persons list for quota transfers to include nieces, nephews and grandchildren in order to facilitate family transfers especially within a corporate family structure.

4.0 Declining Transfer Assessment

4.3 The Board recommends no change to 10/10/10 LIFO with extension of the exempt list to include nieces, nephews, and grandchildren (refer to Section 3 for detailed discussion) for renewal of the industry through farm investments or expansion. The Board is confident by combining the two policies, the long term impact to the dairy industry will be positive and will meet the key objectives and principles originally designed for each policy. This best-balanced decision is consistent with MIAC recommendations and rationale provided in Section 3.

As per the above Farm Succession section 3.2.2 extension of the exempt persons list would meet the needs of key principles to enhance renewal through new producers with increased probability of success.

5.0 Whole Farm Transfers and Quota Exchange

5.3.1 The Board recommends no changes be applied to the Quota Exchange at this time.

5.3.2 The Board recommends the following policy for whole farm transfers:

1. Continue to apply the current whole farm transfer policy in which 50% of the quota remains with the transfer and 50% is sold on the Quota Exchange after all relevant retractions and assessments are taken.

2. In the event a whole farm transfer is purchased with the intention to keep 100% of the quota on the farm, this farm should be advised the following policy parameters;

    a. No merging of quota with any other farm (same ownership) or quota (includes family transfers) for a period of 10 years;

    b. Quota may not be moved to and from a farm of same ownership at any time during the 10 year period;

    c. Should any of these parameters be violated during the 10 year period, the 50/50 transfer policy will be applied at the next available date.

6.0 Specialty Production

6.2 The Board is recommending no changes to policies in the specialty market at this time.

7.0 Cottage Industry Program

7.2 The Board is recommending no changes to policies to the Cottage Industry Program at this time

8.0 Lifestyle Milk and Innovation Policies

8.2 The Board has no recommendations for Lifestyle milk and innovation at this time. The Board will provide FIRB with policies as they are developed.

APPENDICES

APPENDIX A

Quota Has No Value

Discussion Paper

January 28, 2014

QUOTA POLICY AND GOVERNANCE CONSULTATION

Summary Discussion of the Principle that Quota has no value

With reference to the BC Milk Marketing Board (BCMMB) Quota Policy and Governance Review discussion paper of September 2013, stakeholders during the consultation input had requested a further explanation of the principle that "Quota has no value".

Under the *British Columbia Milk Marketing Board Regulation* (a regulation made under the *Natural Products Marketing (BC) Act*), the Milk Board has broad powers to "establish, allot, alter, suspend, or cancel a quota" and "to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled".

Subsection 7(2) of the *Regulation* vests the following specific powers in the Milk Board:

> 7. (2) The board is authorized
>
> (a) to establish, allot, alter, suspend or cancel a quota, <u>to which no monetary value is to be attached by the board</u>, that applies to any person, [*emphasis added*]
>
> (b) to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled,

These provisions must be understood in light of the nature of quota itself.

In *Sanders v. British Columbia (Milk Board)* (1991), 53 B.C.L.R. (2d) 167 (B.C.C.A.). In that case, the appellant producer took issue with the surrender assessment imposed by the Milk Board. The issue before the Court of Appeal was whether quota could be considered "property" as against the Milk Board itself. The Court of Appeal answered in the negative, stating:

> The Milk Board may prescribe the terms and conditions on which quotas may be issued, held, transferred or cancelled. The word "cancelled" is particularly significant as indicating the powers intended to be conferred. A quota, a license to produce, which may be issued on prescribed terms and conditions may be cancelled, that is annulled or abolished, also on prescribed terms and conditions. In summary the situation is "the Board giveth and the Board taketh away"; others may in the meantime buy and sell the licence which the Board issues, but they do so knowing that the Board has the right not to approve its further sale.
>
> In addition, the Court of Appeal quoted with approval from the reasons of Hinds J. in these terms:
>
>> I therefore conclude that the appellant's quota should not be characterized as property. In essence, it was a revocable license to produce and ship fluid milk to a dairy plant. As quota has not been

> characterized as property, the foundation for the appellant's argument that the board cannot expropriate property without compensation has crumbled and has ceased to exist.[1]

The governance of quota in BC is thus guided by two overarching legal principles. The first is that the Milk Board is not permitted to attach monetary value to quota, despite the fact that it acquires value in the market place when traded amongst producers. The second principle is that quota remains under the exclusive control of the Milk Board at all points, meaning that a transfer of quota between two producers does not imply a change in the 'ownership' of that quota.

In short, the expression "quota has no value" is a term of art in regulated marketing. It speaks to both the Milk Board and the producer. To the Milk Board, it states that when the Milk Board is issuing quota and making other regulatory decisions regarding quota, it may not attach value to that quota. To the producer, it says that the producer may not assert that quota as property against its regulator, the Milk Board, regardless of its treatment in other contexts.

***

For further explanation, please see Appendix 1, Detailed Discussion of the Principle that Quota has no value.

[1] See also *Taylor v. Dairy Farmers of Nova Scotia*, 2012 NCSA 1. And see the British Columbia Marketing Board appeal decision in *Bifano Farms Ltd. v. British Columbia Milk Marketing Board*, May 30, 1996

QUOTA POLICY AND GOVERNANCE CONSULTATION

Detailed Discussion of the Principle that Quota has no value.

With reference to the BC Milk Marketing Board (BCMMB) Quota Policy and Governance Review discussion paper of September 2013, stakeholders during the consultation input had requested a further explanation of the principle that "Quota has no value".

Under the *British Columbia Milk Marketing Board Regulation* (a regulation made under the *Natural Products Marketing (BC) Act*), the Milk Board has broad powers to "establish, allot, alter, suspend, or cancel a quota" and "to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled".

The province receives a finite amount of quota through a national allocation process, and the Board determines and administers the process by which that provincial allocation is distributed among BC's dairy producers. Similarly, the Board also establishes the rules under which quota is produced and can be transferred among producers.

Quota confers both a privilege and an obligation to produce milk upon the producers that hold it. Holding quota denotes a commitment to being actively engaged in the BC dairy industry.

The governance of quota in BC is guided by two overarching legal principles. The first principle is that quota has no monetary value, regardless of the fact that it acquires value in the market place when traded amongst producers. The second principle is that quota remains under the exclusive control of the Milk Board at all points, meaning that a transfer of quota between two producers does not imply a change in the 'ownership' of that quota.

The legal principle that Quota has no Value may be summarized as follows:

1. Quota is a revocable license which provides a conditional entitlement to produce milk, but with no right to renew or retain the quota allotted.
2. Quota is issued from the CDC to the Province with no value (free).
3. BCMMB under the regulations are stewards of quota for the Province.
4. BCMMB issues (allocates) quota with no monetary value (free) to produce milk.
5. Quota remains under the exclusive control of BCMMB at all points.
6. Quota is not owned by producers or the BCMMB.
7. Producers may trade (sell) quota with permission of BCMMB to produce milk and create value from cash flow of milk production from the quota.
8. Producers trading (selling) quota use the Quota Exchange "clearing price" based upon the cash flow of the quota but the quota itself still has no value since it is a revocable license and not property.

9. Banks may provide loans to producers based upon the cash flow asset of quota, not the quota as an asset, since quota has no value and may be retracted by the BCMMB at any time.

Background:

Legislative Authority With Respect to Quota

A. Powers Vested in the Milk Board

The British Columbia Milk Marketing Board (the "Milk Board") is continued under the *British Columbia Milk Marketing Board Regulation* (B.C. Reg. 167/94) made under the *Natural Products Marketing (BC) Act*, R.S.B.C. 1996, c. 330.

The Milk Board has been vested with broad powers to regulate the production, transportation, packing, storage and marketing of milk, fluid milk, and manufactured milk products (collectively, "regulated products") within British Columbia.

Section 1 of the *Regulation* defines quota as "the quantity of a regulated product, or of a class, quality, component or grade of a regulated product, that may be allotted under this regulation for production, transportation, packing, storage or marketing within British Columbia".

Subsection 7(2) of the *Regulation* vests the following specific powers in the Milk Board:

> 7. (2) The board is authorized
>
> (a) to establish, allot, alter, suspend or cancel a quota, to which no monetary value is to be attached by the board, that applies to any person,
>
> (b) to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled,

Notably, subsection 7(2) of the *Regulation* employs language that is less restrictive than that which is found in subsection 37(c) of the *British Columbia Egg Marketing Scheme, 1967* (B.C. Reg. 173/67), which reads as follows:

> 37. The board shall have authority within the Province to promote, regulate and control the production, transportation, packing, storing and marketing, or any of them, of the regulated product, including the prohibition of such production, transportation, packing, storing and marketing, or any of them, in whole or in part, and without limiting the generality of the foregoing shall have the following authority:
>
> (c) to issue quotas to registered producers as is deemed necessary, such quotas to remain at all times the property of the board and, <u>subject to prior approval of the Provincial board</u>, to vary such quotas and prescribe the terms and conditions upon which

> they shall be issued or transferred, provided that the board shall not at any time issue to any registered producer a quota in excess of 5% of the total of all such quotas issued;

The absence of any reference to the "prior approval of the Provincial board" subsection 7(2) of the *Regulation* indicates that the Milk Board – unlike the Egg Board – need not obtain the approval of the BCFIRB before exercising the powers referenced in that subsection.

B. Limitations and Qualifications on the Milk Board's Authority Vis-à-vis Quota

The legislative authority of the Milk Board is at all times subject to the supervisory and appellate jurisdiction of the BC Farm Industry Review Board (the "BCFIRB") as set out in section 7.1 and 8 of the Act, respectively.

The Nature of Quota

A. The Constitutional Context

Quota must be understood in the context of our interlocking, federal-provincial supply management system.

In a landmark 1978 case which has come to be known as the "Egg Reference" [*Reference re Agricultural Products Marketing Act (Canada)*, [1978] 2 S.C.R. 1198 (S.C.C.)], the Supreme Court of Canada unanimously affirmed the constitutional validity of the national egg marketing scheme collaboratively crafted by Parliament and the provinces in response to the Court's evolving jurisprudence. The Egg Reference has since become the blueprint for federal-provincial marketing schemes.

Exclusive legislative powers are allocated to the provinces and to Parliament under sections 91 and 92 of the *Constitution Act, 1967*. Provincial governments lack jurisdiction over extra-provincial trade in agricultural products, and Parliament lacks jurisdiction over intraprovincial trade. Consequently, the effective regulation of the market requires the joint participation of the Province and Parliament. This is known as the principle of "cooperative federalism", whereby each level of government enacts laws and regulations based on their respective legislative competencies to create a unified and coherent regulatory scheme.

As a practical matter, the "effective" regulation of the market requires concurrent, overlapping federal and provincial regulation. This is so because the market is "undifferentiated" - in that the regulated product trades both within and without the Province. Because it is not possible to know whether a particular egg produced by a particular producer will be marketed intra-provincially or extra-provincially, overlapping federal and provincial regulation is necessary.

As was noted by Madam Justice Newbury (as she then was) in *British Columbia Milk Marketing Board v. Bari Cheese Ltd. et al.* (11 August 1993), Vancouver Registry, No. C912303 et al. (B.C.S.C.) at pages 126 - 127:

> But if the market is an "undifferentiated" one (i.e., the commodity produced in the province trades both inside and outside the province), and if it is to be regulated in all its aspects from local production to ultimate sale, the lesson of the marketing board cases is

> that legislation at both levels is required. By that means a "practical scheme for the orderly and efficient production and marketing of a commodity which all Governments concerned agree requires regulation in both intraprovincial and extra-provincial trade" is made possible.

In practice, the Milk Board's federal counterpart, the Canadian Dairy Commission (the "CDC"), monitors trends in Canadian requirements (demand) and production (supply) on a monthly basis. Canadian requirements are defined as total domestic consumer demand plus planned exports for industrial dairy products. Production includes all production of industrial milk and cream within supply management.

Having regard to these Canadian requirements, the CDC makes a recommendation to the Canadian Milk Supply Management Committee (the "CMSMC") concerning the national industrial milk production target which is expressed as Market Sharing Quota ("MSQ"). In turn, the CMSMC applies the terms of the National Milk Marketing Plan to establish the provincial shares of the MSQ. British Columbia's share of the MSQ determines, in part, the amount of quota that is available to be allotted by the Milk Board to producers.

B. Revocable Licence to Produce

Though no monetary value is attached by the Milk Board to quota (consistent with paragraph 7(2)(a) of the Regulation), quota is routinely purchased and sold among producers and prospective producers. Nevertheless, it has been judicially recognized that quota is a privilege and not a right. In particular, producers have no rights in quota that can be asserted against the Milk Board or the BCFIRB.

In *Sanders v. British Columbia (Milk Board)* (1991), 53 B.C.L.R. (2d) 167 (B.C.C.A.), the appellant producer took issue with the surrender assessment imposed by the Milk Board. The issue before the Court of Appeal was whether quota could be considered "property" as against the Milk Board itself. The Court answered in the negative, stating:

> The Milk Board may prescribe the terms and conditions on which quotas may be issued, held, transferred or cancelled. The word "cancelled" is particularly significant as indicating the powers intended to be conferred. A quota, a license to produce, which may be issued on prescribed terms and conditions may be cancelled, that is annulled or abolished, also on prescribed terms and conditions. In summary the situation is "the Board giveth and the Board taketh away"; others may in the meantime buy and sell the licence which the Board issues, but they do so knowing that the Board has the right not to approve its further sale.
>
> In addition, the Court of Appeal quoted with approval from the reasons of Hinds J. in these terms:
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> I therefore conclude that the appellant's quota should not be characterized as property. In essence, it was a revocable license to produce and ship fluid milk to a dairy plant. As quota has not been characterized as property, the foundation for the appellant's argument that the board cannot expropriate property without compensation has crumbled and has ceased to exist.

APPENDIX B
BCMMB QAGR
Discussion Document

September 2013

British Columbia Milk Marketing Board Quota Policy and Governance Review Discussion Paper

Introduction

The British Columbia Milk Marketing Board (Milk Board) is currently undertaking a review of its policies relating to the governance of dairy quota in the province. The review was initiated in September 2012 in parallel with a supervisory review by the British Columbia Farm Industry Review Board (BCFIRB).[1]

The Milk Board's quota policies last underwent a major revision in 2005 as part of BCFIRB's consultative Specialty Review.[2] Having gained eight years of experience with the policy and program changes made in 2005, the British Columbia (BC) dairy industry is now preparing to assess how things are working and whether further changes are required to facilitate and respond to the continuing evolution of the dairy sector.

The objective of the current review is to evaluate existing Milk Board policies around dairy quota through a transparent consultative process, with the aim of developing an effective quota policy that will preserve, build and transition the BC dairy industry for future generations. The key principles for such a policy are to provide equitable quota allocation, sustain current producers, facilitate renewal of the dairy industry, enable flexibility to manage quota for milk production, and support innovation and adoption of value added opportunities across the entire market.

This discussion document is intended to support the Milk Board's consultations with dairy producers and other stakeholders on its quota policy. The document provides an overview of the Board's existing policies pertaining to the allocation, production and transfer of dairy quota in BC, and poses a series of questions to facilitate discussion of this policy.[3] Through consultations with industry stakeholders, the Board will gather input that it will use to evaluate current policy, and it will report to BCFIRB on its findings and any proposed policy changes or new policies. BCFIRB will then review the Milk Board proposal and will issue a supervisory decision.

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[1] Under the *Natural Products Marketing (BC) Act*, BCFIRB is the supervisory board for the Milk Board amongst other BC commodity boards.

[2] Individual Milk Board policies have been developed and amended on an as needed basis in accordance with the Board's powers, as described under the 'What is quota?' section of this paper.

[3] This overview is not intended to be exhaustive. Readers are strongly encouraged to familiarize themselves with the various policy related documents available on the Milk Board's website, including the Board's Consolidated Order and Amending Orders, its CDQ guides for conventional and specialty production, and its recent Notices to Producers and Processors.

For further information on the review process, including opportunities for stakeholder participation, please visit the Milk Board's webpage at: www.milk-bc.com.

What is quota?

The BC dairy industry falls under Canada's system of supply management, a form of regulated or orderly marketing that balances domestic dairy production to consumer demand. Supply management ensures fair returns to efficient farmers and guarantees a steady supply of milk for processors and high quality dairy products for consumers at reasonable prices.[4] Dairy quota, which is used to regulate the amount of milk that is produced domestically for sale as fluid or manufactured milk products, is one of two key tools underpinning the supply management system, the other one being tariffs on dairy imports.[5]

Across Canada, a system of national and provincial agencies and boards governs the distribution of dairy quota among individual dairy producers and operations. In BC, the board charged with governing dairy quota is the British Columbia Milk Marketing Board.

Under the *British Columbia Milk Marketing Board Regulation* (a regulation made under the *Natural Products Marketing (BC) Act*), the Milk Board has broad powers to "establish, allot, alter, suspend, or cancel a quota" and "to establish terms on which quotas may be allotted, held, transferred, altered, suspended or cancelled".

The province receives a finite amount of quota through a national allocation process, and the Board determines and administers the process by which that provincial allocation is distributed among BC's dairy producers. Similarly, the Board also establishes the rules under which quota is produced and can be transferred among producers.

Quota confers both a privilege and an obligation to produce milk upon the producers that hold it.[6] Holding quota denotes a commitment to being actively engaged in the BC dairy industry.

The governance of quota in BC is guided by two overarching legal principles. The first principle is that quota has no monetary value, regardless of the fact that it acquires value in the market place when traded amongst producers. The second principle is that quota remains under the

[4] Additional information on supply management and Canada's dairy industry is available on the Dairy Farmers of Canada webpage. Some of the history and rationale underlying the implementation of supply management in the BC dairy industry was captured in a 2009 BCFIRB publication celebrating the 75th anniversary of that Board.

[5] The *British Columbia Milk Marketing Board Regulation*, made under the *Natural Products Marketing (BC) Act*, defines quota as "the quantity of a regulated product, or of a class, quality, component or grade of a regulated product, that may be allotted under this regulation for production, transportation, packing, storage or marketing within British Columbia."

[6] See Section 25 of the Milk Board's Consolidated Order.

exclusive control of the Milk Board at all points, meaning that a transfer of quota between two producers does not imply a change in the 'ownership' of that quota.[7]

As a central linchpin of supply management, quota plays a key role in supporting a vibrant dairy industry and achieving the Board's strategic goals including maintaining high quality milk to meet consumer demand, supporting processors' growth and innovation, and achieving competitive and responsive pricing. In BC, quota policy must meet the supervisory directions issued by BCFIRB and accord with good governance practices and principles, including those of strategic, accountable, fair, effective, transparent, and inclusive governance (the 'SAFETI' principles).[8] Effective quota policy is crucial to maintaining the public interest and so the dairy industry's 'social license' amongst British Columbians.

Quota allocation

In allocating quota, the Board must respond to changes in the overall national demand for milk and milk products from year to year as this affects the provincial allocation. The Board allocates separate classes of quota to conventional and specialty (organic) producers, and must similarly respond to differential rates of growth (or contraction) in conventional and specialty markets.

Presently, the Milk Board meets these goals through four main processes: distribution of general quota allotments (and reductions) to producers in the different quota classes, additional tools for specialty producers, and allocations through each of the Graduated Entry Program and the Cottage Industry Program. Under the Milk Board's Continuous Daily Quota (CDQ) system, a given producer's current quota holdings are expressed in kilograms of butterfat per day.

General allotments and reductions

In recent years, growth (or contraction) in the provincial allocation has been distributed to individual producers on a *pro rata* basis, with both mainstream and specialty producers receiving quota increases (or retractions) in proportion to their existing quota allotment. At present, any individual producer's total allotment is limited to 5.0% of the total CDQ allotted by the Board to all producers.

Some dairy industry stakeholders have suggested that there is a need to lower the maximum allotment and/or restructure the allocation process in order to slow farm consolidation and better support new entrants to the industry, for example by exploring alternatives to *pro rata* distribution. Moving away from *pro rata* distributions could also provide an effective way of responding to differential demand for conventional and specialty dairy products (see next

[7] See Section 7(2) of the *British Columbia Milk Marketing Board Regulation* (BC Reg. 167/94), and Sanders v. British Columbia (Milk Board) (1991), 53 BCLR (2d) 167 (BCCA).
[8] The SAFETI governance principles were developed by BCFIRB in consultation with BC's commodity boards.

section) and/or ensure that quota was provided to those who are in a position to actively fill it (see 'Declining transfer assessment schedule', below). Others feel that current processes offer a transparent approach that balances the needs of smaller and larger production units, conventional and specialty producers, and both newer and more established producers in the industry.

Tools for specialty producers

Alongside the *pro rata* distributions discussed above, the Milk Board currently uses a three-step system to address differential growth in specialty relative to conventional markets.[9] The system hinges on milk vendors (processors) submitting three-month forecasts of their production requirements to the Milk Board in February, May, August, and November of every year. The Board then pursues a series of measures to fill the specialty market:

- First, the Milk Board will invite potential candidates from the Specialty Industry Production Wait List to commence specialty production.[10]
- Second, the Milk Board will consider any expansion requests from existing specialty producers, who, if such requests are granted, must purchase quota through the conventional quota exchange, specialty quota exchange, or a whole farm transfer, or must transfer it from any existing conventional farm they may own.
- Third, the Milk Board will issue a sleeve allowing existing producers to engage in additional specialty production (calculated as a percentage of their CDQ) without purchase of quota. Periodically, the Board facilitates the permanent allocation of this sleeve into quota by providing specialty producers with priority access to the Quota Exchange and/or allowing transfer in of CDQ credits from the conventional pool (see 'Credit transfers', below).

In recent years, this three-step process has proven effective in addressing the demand for specialty products in the province, meaning that the Milk Board has been able to continue to distribute general allocations on a *pro rata* basis to conventional and specialty producers alike, rather than implementing differential distributions (see previous section).

Although some industry stakeholders suggest that the current system provides 'preferential treatment' to specialty producers, the need for addressing differential market growth is fundamental to responding to consumer demands, maintaining public support for the industry and facilitating expansion of the sector overall. Specialty producers suggest that investments made to service the sleeve need to be recognized through the quota crystallization process, and that the current system allows for a timely and flexible manner of addressing specialty market

[9] The Milk Board's tools for responding to growth in specialty markets are described in further detail in the Board's CDQ Guide for Specialty Production.
[10] From 2009 until 2012, the Milk Board's Organic Incentive Policy provided a one-time issuance of up to 5000 kg per year of incentive quota to organic producers. This policy was suspended in November 2012 and the current policy does not offer any incentive for entrance into specialty production.

demand, while balancing the need to increase the number of operating specialty producers with the need to expand existing farms in what is still a developing market.

Graduated Entry Program

The Milk Board's Graduated Entry Program (GEP) is intended to provide an effective means for persons to enter the industry as active dairy farmers, thereby facilitating renewal of the industry.[11] Quota allotted under the GEP is currently provided from a pool containing the Board's assessments against quota transfers amongst producers (see 'Declining transfer assessment schedule', below).

The Board has committed to starting a minimum of three new entrants per year, and since 2005 has started 29 applicants. The waitlist for the program currently has 50 names on it and has been closed to additional names since December 2005. Persons with a previous interest in quota in any of Canada's supply managed industries, and their spouses, are ineligible for participation in the GEP.

The GEP provides new entrant producers with an initial allocation of 13.7 kg of CDQ. Where a new entrant purchases or acquires CDQ within five years of commencing production, the Board will allot to the new entrant an amount of CDQ equivalent to their purchase, up to a maximum of 5.5 kg. Entrants under the GEP as well as new producers entering the industry by other means (i.e. through quota purchases) also receive priority status on the Board's Quota Exchange (see 'Quota exchange', below). Finally, GEP participants can also access credit transfers (see 'Credit transfers', below).

Effective new entrant programs in the supply managed sectors are important to the credibility and sustainability of the regulated marketing system. Dairy industry stakeholders have indicated several concerns about the GEP.

The principal concern regards whether the initial and matching allotments made under the GEP provide a sufficient foothold for entrants to establish an economically viable farming operation. Stakeholders recognize that the size of allocations balances against the number of entrants started each year, which some feel is too low. There is considerable concern about the length of the waitlist and its prolonged closure. Some feel that the program should be tied to market growth rather than transfer assessments.

Many stakeholders also suggest that in its current form the GEP functions mainly to assist transition or the intergenerational transfer of farms within the dairy industry, rather than as a

[11] The Graduated Entry Program Rules are presented in Schedule 1 of the Milk Board's Consolidated Order.

means of attracting more diverse entrants.[12] Some worry that this reduces the program's potential for facilitating innovation and resilience in the sector.

Stakeholders have asked whether there is a need for a separate succession management program or approach that is independent of the GEP but serves the purpose of supporting intergenerational transfers among dairy farm families and overall farm succession challenges.

In 2008/2009, the Board undertook a regularization process to address noncompliance with the provision that GEP entrants be actively engaged in milk production.[13] This noncompliance involved the unauthorized transfer of quota resulting in financial benefits to individuals worth millions of dollars. Although the Board has put in place an auditing system to improve compliance going forward, some stakeholders remain concerned about this issue. It has also been suggested that, in light of the additional wait time that dealing with program non-compliance through the regularization process imposed, there may be benefit in making increased amounts of GEP quota available in the near future.[14]

Cottage Industry Program

The Milk Board's Cottage Industry Program (CIP) aims to facilitate small scale, on-farm production of consumer-ready manufactured dairy products.[15] It also includes provisions to support the production of fluid milk in specified 'Remote Regions' of the province. As with the GEP, allotments under the CIP are obtained from transfer assessments (see 'Declining transfer assessment schedule', below).

CIP participants can obtain a minimum of 4.1 kg and a maximum of 27.4 kg of CDQ from the program, with their allotment being transferable only as 'Going Concern Sale' for 15 years following the initial allotment. Producers may also purchase additional quota on the Quota Exchange, where they obtain a one-time priority access (see 'Quota exchange', below). Finally, CIP participants may also receive milk from a third party subject to conditions set by the Board.

Dairy stakeholders have suggested that there is a lack of familiarity with the CIP among existing and prospective industry participants, with some saying the program was underutilized as a

[12] In years when the GEP waitlist was open to additional names, many dairy farmers registered their children or other relatives on the list. In some cases, these relatives subsequently received GEP quota, only to then have the original farming family member transfer some or all of their quota holdings to the new entrant. This may impose a disadvantage on new entrants without a family background in the industry, in the sense that they cannot grow their operations as quickly as some of their peers who may come from dairying families.

[13] For more information on the regularization process, see: http://bcmilkmarketing.worldsecuresystems.com/news/gep.

[14] See the following BCFIRB supervisory review decision: http://www.firb.gov.bc.ca/reports/sup_decisions/verdonk_panel_decision_final_jun_26_2009.pdf.

[15] The Cottage Industry Program Rules are presented in Schedule 2 of the Milk Board's Consolidated Order.

result. The majority of stakeholders recognize that the CIP fills an open market, helps provide for small innovators as a complement to large producers and processors, improves sales across the sector, and draws positive attention to and secures public support for the dairy industry. Nonetheless, many noted the need to improve transparency around the program to avoid a perception of misuse. Stakeholders also suggested that the program (or similar programs) could be made more accessible to existing producers that are interested in pursuing on-farm processing for local consumption.

Production of quota

The Board must manage overall production of milk in British Columbia to match the provincial allocation. In doing so, it faces potential penalties for over producing this allocation. Under production, in turn, results in a lost production opportunity for the province, since under produced quota will be retracted and distributed to other provinces going forward. In order to minimize penalties against the Board and the loss of production opportunities, the Board holds producers to a similar standard, wherein they too are discouraged from regularly over- or under- producing their individual quota holdings.

At the same time, both the Board and producers face real challenges in producing their quota due to the natural, day-to-day and seasonal variability in milk production among dairy cattle. Occasionally, producers also need additional flexibility to allow for farm expansion or downsizing, or adjustment to changes in family circumstances. Currently, the Board and producers rely on three main tools to manage these challenges: a production flexibility system, a system of incentive days, and CDQ credit transfers. While these tools allow for responsive quota management, they are not perfect: in the 2011/12 dairy year, the Board assesses that it accrued 117,839 kg of unmet production opportunity and incurred $2,575,969 in over quota penalties.[16]

Production flexibility system and over and under production penalties

The Board's production flexibility system helps producers to manage their quota production through the provision of 'Flexibility Days' and the assessment of penalties on milk production over and above a given producer's quota holdings.

At present, the Board's 'Flexibility Days' policy provides producers with 20 days of flexibility in producing their quota. Under this policy, producers can over produce the equivalent of up to five days of their CDQ. Should a given producers' over production surpass this limit, they either need to transfer in quota credits to cover the excess production (see below), or they will be assessed over production penalties by the Board. In turn, the flexibility system similarly allows producers to under produce the equivalent of as many as 15 days of their CDQ. Below this limit,

[16] The fact that the Board incurred both lost production opportunities and overproduction penalties indicates a temporal difference between when the excess milk was produced relative to when additional milk was required.

producers would have to transfer out credits to remain in good standing with the Board. Although the Board does not assess under production penalties or retract under produced quota from individual producers, the lost revenues associated with under production are sufficient to encourage most producers to stay within the specified bounds.

Most producers rely on the Board's production flexibility system at some point in the dairy year. However, some industry stakeholders suggest that the provisions allowing for under production are overly generous and that stricter consequences or penalties should apply.

Incentive days

The Board's system of 'Incentive Days' is used to boost milk production in autumn months, when it is naturally lower than at other points in the year.[17] Under the system, the Board may offer producers the opportunity to produce the equivalent of an extra day (or portion thereof) of CDQ over the course of specified months. Participation in incentive days is optional and limited to those producers who are producing their CDQ.

In recent years, producer utilization of incentive days has been reasonably strong, with about 35% of producers participating. Stakeholders generally recognize this system as providing an effective means of managing seasonality and stabilizing milk production and supply over the dairy year.

Credit transfers

In addition to production flexibility, the Board allows for the transfer of production credits between licensed producers. When transferring credits out, a given producer is effectively granting a temporary interest in producing a portion of their CDQ to another producer, who is transferring the credits in. Although CDQ credit transfers are private transactions, the Board requires producers to submit record of them to the Board so that it can monitor the volume, direction, initiators and recipients of credit transfers.

Effective August 1, 2013, conventional producers with quota holdings of more than 40 kg CDQ are permitted to transfer credits equivalent to a maximum of 15% of their equivalent Total Production Quota (TPQ) – total CDQ for the year – in or out, while those with holdings of less than or equal to 40 kg CDQ are permitted transfer 3750 kg in only or 15% of their equivalent TPQ in and out, with credit transfer limits calculated on a rolling 12 month basis in each case.[18] At present, the Board places no limitations on the frequency with which producers can utilize credit transfers or the times of the year when they may do so.

[17] Announcements of upcoming 'Incentive Day' opportunities are made through the Milk Board's Notices to Producers.

[18] Effective February 1, 2014, farms allotted more than 40 kg CDQ will be permitted a maximum credit transfer limit of 10%, while those allotted less than or equal to 40 kg CDQ can transfer 2500 kg in only or 10% in and out, with credit transfer limits calculated on a rolling 12 month basis in each case. For more information, see: Notice to Producers - Credit Transfer Policy - May 29 2013.

The Board has implemented special provisions for specialty producers and those producers participating in the Domestic Dairy Product Innovation Program (DDPIP).[19] Specialty producers are permitted unlimited credit transfers within the specialty pool. DDPIP producers can transfer out credits equivalent to their production on their DDPIP contract in any given month, up to the maximum of their current CDQ holdings.

Dairy industry stakeholders have expressed concern that some producers are relying too heavily on credit transfers in recent years. This is thought to result from those producers' efforts to avoid the assessments that apply to quota transfers on the Board's Quota Exchange (see 'Declining transfer assessment schedule', below). Some suggest that the system has created an incentive for producers not to produce their quota, while also reducing the availability of quota on the Quota Exchange. Stakeholders note that the credit transfer system was not designed to handle the volume of quota it now sees, and that heavy reliance on the system may also be contributing to production that is out of pace or off-season from demand.

Transferring quota

The Milk Board coordinates the transfer of quota between producers through a Quota Exchange system on which, barring the exceptions discussed below, all quota must be transferred. Given the need to preserve conventional and specialty quota as distinct quota classes, the Board maintains a separate exchange for each of the two classes.

The Board also retracts a portion of all transferred quota by way of a transfer assessment, thereby minimizing the opportunity for profiteering off of quota transfers and providing the Board with flexibility to facilitate the future development of the dairy industry, irrespective of changes to the provincial allocation.

Quota exchange

The Board's quota exchange for conventional quota operates on a monthly basis.[20] Effective September 1, 2013, the specialty quota exchange will run when quota is made available by existing specialty producers.[21]

To assist with the smooth transfer of quota amongst producers and to minimize the opportunity for price manipulation, a market clearing price for quota is calculated prior to each

[19] The Domestic Dairy Product Innovation Program (DDPIP) is a national program providing a means by which persons interested in producing certain new and innovative dairy products can access the milk they need outside of existing allocations to provincial processing plants. For more information on the Program, see: http://www.cdc-ccl.gc.ca/CDC/index-eng.php?id=3816.
[20] Documents relating to the Board's conventional quota exchange are available on the Board's website at: http://milk-bc.com/quota/exchange.
[21] The operational guidelines of the Board's specialty quota exchange are specified in: Notice to Producers – Specialty Quota Exchange – July 30 2013.

exchange. On the August 2013 conventional quota exchange, the market clearing price was $42,500 per kilogram of CDQ. The market clearing price for specialty quota will always be set at the current price of the conventional exchange for the month in which the sale will occur.

According to the rules established by the Board, persons interested in selling quota must complete an offer to sell, which may contain quota ranging from a minimum of 0.1 kg CDQ to the total amount of CDQ the producer has available for transfer. Persons interested in purchasing quota must complete an offer to buy, which may contain quota ranging from a minimum of 0.1 kg CDQ to a maximum of 30kg CDQ.

If there is insufficient CDQ subject to offers to sell in any monthly exchange to meet all offers to buy, then the available CDQ transfers to producers on a percentage basis. For example, if there is enough CDQ contained in the aggregate of all offers to sell to fill 95% of offers to buy, then each offer to buy will be 95% filled.

To facilitate their access to quota, participants in the GEP as well as other new entrants (i.e., those entering the industry by purchasing quota) may each apply to the Board to be granted priority status on a monthly exchange. Where such status has been granted, offers to buy will be 100% filled up to a maximum of 5.5 kg CDQ for GEP participants, and a maximum of 13.7 kg CDQ for other new entrants, prior to filling other offers to buy in that monthly exchange. The Board also provides for a one-time priority access to 13.7 kg CDQ for CIP participants.

Exceptions to the requirement that quota be transferred on the exchange include transfers to a producer's spouse, child, child and the child's spouse; deemed transfers, which represent a change in the interests held by producers in a partnership or a corporation; and reallocations of quota amongst multiple dairy farms operated by a given producer. In such cases, transfers will be considered upon application to the Board. Additionally, in the case of 'going concern sales', the Boards current policy is that 50% of the CDQ must transfer on the Quota Exchange, while the remaining 50% may be sold as a 'going concern' to a single transferee provided it is accompanied by the transferor's interests in the land, dairy farm, buildings, facilities, equipment, and dairy cattle associated with that CDQ.

Dairy industry stakeholders have suggested that the volume of quota available on the Quota Exchange has been quite limited in recent years. Many suggest that this limited availability results from the declining transfer assessment schedule applied to quota transferred on the Exchange (see below), which disincentivizes use of the exchange and encourages producers' reliance on CDQ credit transfers and whole farm transfers instead (each described above).

Producers are bidding up the market price of quota, which in turn creates a burden to those farmers that are seeking to expand, especially new entrants and smaller producers. The current going concern sales policy is another area of debate within the industry, with some stakeholders suggesting that the policy helps to get quota onto the exchange, while others suggest that the policy makes it difficult to access sufficient financing to purchase the farm in question. In each case, stakeholders have suggested that there may be a need for policy changes to offset the accelerated farm consolidation that larger operations' relatively greater access to capital may be causing.

Declining transfer assessment schedule

Barring certain exceptions described below, the Board applies an assessment against quota transferred among dairy producers. Assessed quota is placed into a pool that in recent years has been used to make allocations through the GEP and CIP (as discussed above).

On quota allotted before September 1, 2005, the assessment is 5.0% of the total CDQ being transferred. Quota allotted on or after September 1, 2005 is subject to a declining transfer assessment, as established for all of BC's supply managed sectors following the 2005 Specialty Review. In the first year following issuance, 100% of quota is automatically retracted on transfer. In the second year and subsequently, the amount retracted declines by 10% per year until it reaches a minimum assessment of 10% in the tenth year. Transferability therefore commences in the second year at 10% of the quota allotted and increases by 10% per year until it reaches 90%. This transfer assessment schedule is commonly referred to as the '10/10/10' system.

Under the declining transfer assessment schedule, quota allotted on or after September 1, 2005 is also subject to a 'last in, first out' (LIFO) provision, where the last quota allotted is the first authorized for transfer by the Board.

Exceptions to the declining transfer assessment and LIFO provision include transfers and deemed transfers (as above) to a producer's spouse, child, child and the child's spouse; transfers and deemed transfers to a producer's siblings under circumstances prescribed in the Board's Consolidated Order; and situations involving the formation or dissolution of partnerships or corporations where the producer's interests do not change.

Dairy industry stakeholders have expressed high levels of concern about the declining transfer assessment schedule, suggesting that it creates real challenges for farm management, dealing with shifts in family circumstances, downsizing and retirement, and farm succession. They suggest the policy makes the milk production system too static and inflexible. Some stakeholders suggest that existing producers have 'earned' quota allotments through their investment in and contribution to the dairy industry, and that they should be free to produce or dispose of this quota as they see fit.

At the same time, there is an argument that such a view goes against the principle that quota confers an obligation to produce milk on the allotment recipient. Some stakeholders have suggested that removal of the schedule would yield significant selling of quota obtained through Board allotments, which, in their view, should only be distributed to those who can actually fill the quota requirements. As discussed earlier in this paper, this could support, amongst other possibilities, a shift from the Board's current system of *pro rata* distribution of growth (or retraction) in the provincial allocation.

While some stakeholders suggest that GEP participants should face a stricter transfer assessment schedule than existing producers as a means of ensuring their commitment to the industry, others note that new entrants and existing producers alike may face similar farm- and family management needs. Moreover, there is an argument for reciprocity in the treatment of producers across the dairy industry.

Further information

The Milk Board has established a centralized website for the current Quota Policy and Governance Review, which will be regularly updated as information associated with the Review becomes available. That page is accessible off of the Milk Board's main site at: www.milk-bc.com.

Persons requiring further information beyond that included in this paper and the referenced policy documents are encouraged to contact the Milk Board, at:

Mail: BC Milk Marketing Board, 200 - 32160 South Fraser Way, Abbotsford BC, V2T 1W5
Fax: 604-556-7717
Email: quota-governance@milk-bc.com

Discussion Questions

1. Do current quota allocation policies support the presence of an appropriate range of farm sizes and production models in the British Columbia dairy industry?

2. How can differential rates of growth in the markets for conventional and specialty dairy products best be assessed and addressed?

3. What are the benefits and drawbacks of the Board's current policy of allocating general allotments (or reductions) of quota among producers on a *pro rata* basis? Are there alternative allocation systems that might be considered, and what are their potential strengths and weaknesses?

4. What are the requirements of a new entrant program if it is to effectively support the establishment of new dairy farming operations amongst program participants?

5. Should the Board's new entrant program be used to facilitate the intergenerational transfer of farms within the dairy industry? Is there rather a need for a specific and separate policy or set of policies to facilitate intergenerational transfer?

6. How can further growth, innovation, and the production of value-added products best be facilitated in the industry among existing producers and new entrants alike? How can quota best be supplied to (or accessed through) such programs?

7. What types of quota policies can best ensure that dairy industry production matches the consumer demand for milk, as indicated in the provincial allocation? What types of over or under-production penalties are appropriate?

8. How can quota best be enforced as an obligation to produce, while providing producers with the necessary flexibility to respond to their cattle's natural variability in milk production and to provide for effective farm- and family management?

9. How can the transparent and smooth functioning of the Quota Exchange best be ensured for transferors and transferees alike?

10. How can the legal principles that quota has no value and that it remains under the control of the Board at all points best be reflected in the Board's quota policy?

11. Are there any other questions or issues that the Milk Board should be considering in the current Quota Policy and Governance Review?

APPENDIX C
Meeting Schedule

BC milk
MARKETING BOARD

NOTICE TO PRODUCERS

BC Dairy Quota Policy & Governance Consultation

Regional Meeting Schedule | September - October 2013

The BC Milk Marketing Board is conducting a consultation with the support of the BC Farm Industry Review Board (BCFIRB) that will be used to develop an effective long term quota allocation and governance policy. The Milk Board has developed a Discussion Paper in support of the consultation, which will be released in early September for review and feedback. Further details and information will be provided when the discussion paper is released and consultation is initialized.

In order to ensure participation in the consultative process, the Milk Board is advising a series of regional face-to-face listening sessions with dairy industry stakeholders will take place in September & October 2013. Please review the regional meeting schedule below for a meeting in your area:

Date	Regional Meetings | Venue	Time
September 26, 2013 *Thursday*	**Vancouver Island – Nanaimo** *Coast Bastion Hotel*	**7:30 PM**
October 1, 2013 *Tuesday*	**Fraser Valley – Abbotsford** *Ramada Inn & Conference Centre*	**7:30 PM**
October 7, 2013 *Monday*	**Bulkley Valley – Smithers** *Hudson's Bay Lodge*	**11:00 AM**
October 7, 2013 *Monday*	**Cariboo & Peace River – Prince George** *Treasure Cove Hotel*	**7:00 PM**
October 8, 2013 *Tuesday*	**Fraser Valley – Chilliwack** *Best Western Rainbow Country Inn*	**7:30 PM**
October 9, 2013 *Wednesday*	**Okanagan – Salmon Arm** *Prestige Harbourfront Hotel*	**10:00 AM**
October 10, 2013 *Thursday*	**Kootenays – Creston** *Ramada Creston Hotel*	**11:30 AM**

Questions or comments can be emailed directly to quota-governance@milk-bc.com

APPENDIX D
Summary of Consultation

Quota Governance Policy Consultation

1. ***March 14-27, 2013***

   Spring Producer Meetings | BC Regions

   Board representatives advised producers of a quota consultation in 2013

2. ***March 25 – April 11, 2013***

   Field Scoping questions through COMB industry survey

   COMB to distribute industry survey to industry stakeholders Producers, Prospective Producers (MIAC, SPAC, GEP Wait list, BCDA) Processors, Consumers (MIAC, SPAC, BCDC)

3. ***April 6, 2013***

   Quota Allocation and Governance Policy Review Discussion paper

   Robert Hrabinsky provided a reference document with respect to quota allocation policies.

4. ***April 9 – 15, 2013***

   Assess Survey Results and develop discussion paper

5. ***April 24, 2013***

   Board Update | BCMMB Meeting

   Provide Board with update on survey (participation, raw data)

6. ***April 25 – July 25, 2013***

   Further refine paper and questionnaire with FIRB and BCDA

   Make any required changes based on Board, FIRB and BCDA feedback Final questionnaire ready for consultation

7. ***May 10, 2013***

   Hired a consultant for development of discussion document

   Hired Melanie Sommerville to develop draft discussion paper for consultation

8. ***June 3, 2013***

   Draft discussion document received for review by staff

9. ***June 20, 2013***

   Draft discussion document for review by the Board

10. ***June 21, 2013***

    Discussion to determine final stakeholder list | FIRB Meeting

    Board Staff and FIRB to discuss consultation plan, preliminary discussion document and define final Public Stakeholder list

11. August 2013

Focus Groups to test & discuss questionnaire | FIRB Meeting

Test out the questionnaire with the BCDA

12. September 2013

Initialize consultation

Issue a NTP with discussion paper & questionnaire to public stakeholder list and request feedback

13. October. 1- 15, 2013

BC Regional Consultation | Regional Meetings

Regional meetings (could include fall producer meetings) facilitating discussions on survey results. Suggested locations are listed below –order to be determined based on Board members availability and regional Boards availability.

1	**Salmon Arm**
2	**Abbotsford**
3	**Smithers**
4	**Prince George**
5	**Chilliwack**
6	**Creston**
7	**Vancouver Island**

14. November 2013

Analysis and Questions to Resolve

Follow up to questions, issues, concerns with respect to suggested policy changes

15. December 2013

Verify Understanding

Suggested consultation with MMPA, BCDA, KODA, VIP to ensure understanding of feedback through webinar, telephone conference and face to face if required.

16. January 2014

Policy Proposal

Board and FIRB review of proposal

17. April 2014

Board Policy Proposal discussion

BCFIRB and BCMMB meeting to discuss prior approval review direction, comments and coordination of information to stakeholders

18. May 2014

Policy Feedback Announcement | BC Regions

Relay results of the consultation and any policy changes.

APPENDIX E
C.O. September 1, 2013
Section I Introduction & Definitions

PART I - INTRODUCTORY

Purpose of Order

1. The British Columbia Milk Marketing Board (the "Board") has approved this Consolidated Order (the "Consolidated Order") for the purpose of promoting, controlling and regulating the production, transportation, packing, storing and marketing of milk, fluid milk and manufactured milk products within British Columbia under provincial authority, and for the purpose of regulating the production for marketing, or the marketing, in interprovincial or export trade, of milk, fluid milk and manufactured milk products, under federal authority.

Authority of Board

2. The Board exercises its federal and provincial powers under the following enactments:

   (a) *Natural Products Marketing (BC) Act*, R.S.B.C. 1996, c. 330 (the "B.C. Act");

   (b) *British Columbia Milk Marketing Board Regulation*, B.C. Reg. 167/94 (the "B.C. Regulation");

   (c) *British Columbia Milk Order*, SOR/94 - 511 made under the *Agricultural Products Marketing Act*, R.S., c. A-7 (the "Federal Milk Order"); and

   (d) *Dairy Products Marketing Regulations*, SOR/94 - 466 made under the *Canadian Dairy Commission Act*, R.S., c. C-7 (the "Federal Regulations").

Interpretation

3. In this and all orders of the Board, unless the context requires otherwise, the definitions contained in the B.C. Act and the B.C. Regulation shall have effect together with the following additional definitions:

   "**Bulkley Valley**" means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

   - Point 1: 127° 18' W 54° 49' N
   - Point 2: 127° 10' W 54° 52' N
   - Point 3: 126° 59' W 54° 48' N
   - Point 4: 126° 44' W 54° 36' N
   - Point 5: 126° 55' W 54° 34' N

- Point 6: 127° 12’ W 54° 42’ N

“**Business Day**” means Monday, Tuesday, Wednesday, Thursday or Friday, but excludes statutory holidays or other holidays on which the offices of the Board are closed;

“**Butterfat Skim-Off**” is the amount of butterfat recovered from standardization of the butterfat content of fluid milk and used in the production of manufactured milk products;

“**Cariboo**” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 124° 10’ W 54° 5’ N
- Point 2: 122° 30’ W 54° 0’ N
- Point 3: 122° 2’ W 52° 34’ N
- Point 4: 122° 46’ W 52° 35’ N
- Point 5: 122° 56’ W 53° 47’ N
- Point 6: 124° 4’ W 53° 54’ N

“**Certified Organic Producer**” means a Producer who is the holder of a valid and subsisting certificate issued pursuant to the *Agri-Food Choice and Quality Act*, S.B.C. 2000, c. 20 and the *Organic Agricultural Products Certificate Regulation*, B.C. Reg. 200/93 or such other standard and regulation approved by the Board certifying that the Producer meets the standards applicable to organic farming;

“**Commission**” means the Canadian Dairy Commission;

“**Continuous Daily Quota**” means:

(a) a concurrent quantity of Provincial Fluid Quota and Federal Fluid Quota expressed in kilograms of butterfat per day;

(b) a concurrent quantity of Provincial Manufactured Milk Quota and Federal Manufactured Milk Quota expressed in kilograms of butterfat per day; or

(c) an aggregate of (a) and (b);

and includes a share of such Continuous Daily Quota when allotted to Producers;

“**Conventional Production**” means Qualifying Milk other than Organic Production.

"**Credit**" means a kilogram of butterfat available in an Over Production Credit or in an Under Production Credit;

"**Credit Transfer**" means a transaction whereby Over Production Credits or Under Production Credits are Transferred from one licensed Producer directly to another;

"**Dairy Farmer**" means the owner or occupier of a dairy farm, and includes the manager or other Person in charge of a dairy farm;

"**Dairy Plant**" means a premises which receives milk for processing, distribution and/or manufacturing into fluid milk products and/or manufactured milk products, and includes such premises located on a dairy farm;

"**Dairy Year**" means the 12 month period from August 1 in a calendar year to July 31 in the following calendar year;

"**Deliveries" or "Delivered**" includes all transfers of a regulated product:

(a) from a Producer, through the Board, to a Vendor;

(b) between Vendors for marketing or for processing into a regulated product; and

(c) a transfer from a Producer to that same Producer in his or her capacity as Vendor;

"**Exempt Person**" means a Producer's spouse, child, child and the child's spouse.

"**Federal Fluid Quota**" means the total quantity of milk, as defined in the Federal Milk Order, authorized by that Federal Milk Order to be allotted for the production for marketing, or the marketing, in interprovincial or export trade;

"**Federal Manufactured Milk Quota**" means quota defined as federal quota in the Federal Regulations;

"**Food Natural Health Products**" means Life-Style Milk;

"**Fraser Valley**" means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 123° 5' W 49° 0' N
- Point 2: 123° 7' W 49° 11' N

- Point 3: 122° 41’ W 49° 16’ N
- Point 4: 122° 27’ W 49° 11’ N
- Point 5: 121° 46’ W 49° 15’ N
- Point 6: 121° 44’ W 49° 15’ N
- Point 7: 121° 43’ W 49° 11’ N
- Point 8: 121° 58’ W 49° 5’ N
- Point 9: 122° 8’ W 49° 0’ N

“**Going Concern Sale**” means a Transfer where Continuous Daily Quota is sold together with:

(a) the Transferor’s fee simple interest in the land and dairy farm associated with that Continuous Daily Quota;

(b) the Transferor’s interest in all buildings, facilities and equipment used in connection with that dairy farm; and

(c) the Transferor’s interest in all dairy cows kept at that dairy farm;

subject to the surrender provisions of this Consolidated Order;

“**Kootenays**” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 116° 38’ W 49° 9’ N
- Point 2: 116° 34’ W 49° 9’ N
- Point 3: 116° 29’ W 49° 6’ N
- Point 4: 116° 25’ W 49° 6’ N
- Point 5: 116° 25’ W 49° 0’ N
- Point 6: 116° 36’ W 49° 0’ N

“**Licensee**” means a Person who holds a Valid Licence issued by the Board or the Commission;

“**Life-Style Milk**” means Naturally Enriched Essential Fatty Acids Qualifying Milk or Vita D Qualifying Milk.

“**Monthly Production Entitlement**” means the amount of Continuous Daily Quota allotted to a Producer, multiplied by the number of days that Qualifying Milk Delivered by that Producer had been produced in a month, adjusted by the Board to account for:

(a) Transfers of Continuous Daily Quota;

(b) Credit Transfers; and

(c) allotments of new Continuous Daily Quota or adjustments or reductions of allotted Continuous Daily Quotas;

"**Naturally Enriched Essential Fatty Acids Qualifying Milk**" means Qualifying Milk that is certified by an independent laboratory to contain essential fatty acids as follows:

Docosahexaenoic acid: approximately 2.0 mg/g (fat as triglycerides) in milk;

Elcosapentaenoic acid: approximately 1.0 mg/g (fat as triglycerides) in milk; and

Conjugated Linoleic acid: approximately 20.0 mg/g (fat as triglycerides) in milk;

"**Okanagan**" means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 119° 27' W 50° 75' N
- Point 2: 118° 87' W 50° 91' N
- Point 3: 118° 85' W 50° 87' N
- Point 4: 118° 93' W 50° 83' N
- Point 5: 119° 03' W 50° 58' N
- Point 6: 118° 91' W 50° 57' N
- Point 7: 118° 82' W 50° 63' N
- Point 8: 118° 78' W 50° 60' N
- Point 9: 118° 89' W 50° 51' N
- Point 10: 119° 06' W 50° 51' N
- Point 11: 119° 08' W 50° 45' N
- Point 12: 119° 23' W 50° 30' N
- Point 13: 118° 72' W 50° 30' N
- Point 14: 118° 72' W 50° 20' N
- Point 15: 119° 27' W 50° 20' N
- Point 16: 119° 30' W 50° 35' N
- Point 17: 119° 84' W 50° 46' N
- Point 18: 119° 97' W 50° 61' N
- Point 19: 120° 17' W 50° 64' N
- Point 20: 120° 18' W 50° 67' N
- Point 21: 119° 53' W 50° 90' N
- Point 22: 119° 33' W 50° 88' N

"**Organic Production**" means Qualifying Milk produced by a Certified Organic Producer in accordance with the applicable organic standards.

“**Over Production Credit**” means the number of kilograms of butterfat that is equal to the amount of Continuous Daily Quota allotted to a Producer multiplied by 5, less the aggregate number of kilograms of butterfat Delivered by that Producer in excess of any Monthly Production Entitlement and any available Under Production Credit in any previous month;

“**Peace River**” means that region within the Province of British Columbia bounded by a line joining the following geographical co-ordinates:

- Point 1: 120° 59’ W 56° 18’ N
- Point 2: 120° 29’ W 56° 20’ N
- Point 3: 119° 59’ W 55° 52’ N
- Point 4: 120° 0’ W 55° 27’ N
- Point 5: 120° 31’ W 55° 45’ N

“**Person**” means a person as defined in the *Interpretation Act*, R.S.B.C. 1996, c. 238;

“**Pool Participant Producer**” means a Producer operating under a Class “C” Producer Licence and a Class “C-FED” Producer Licence, and includes a Class “D” Producer Vendor who has elected to receive milk from another Vendor or Producer (through the Board) as permitted under the Cottage Industry Program Rules;

“**Pool Participant Vendor**” means a Vendor who is the holder of a Valid Licence, but does not include a Person who is the holder of a Class “D” Producer Vendor Licence unless such Class “D” Producer Vendor has elected to receive milk from another Vendor or Producer (through the Board) as permitted under the Cottage Industry Program Rules;

“**Processor**” means any Person who operates a Dairy Plant and receives or utilizes milk for processing into fluid milk or manufactured milk products;

“**Producer**” means a Person who produces milk obtained from cows in British Columbia;

“**Producer Vendor**” means a Producer, who processes on a dairy farm, milk from that dairy farm into fluid milk or manufactured milk products;

“**Provincial Fluid Quota**” means quota as defined in the B.C. Regulation as it pertains to the fluid milk market;

“**Provincial Manufactured Milk Quota**” means quota as defined in the B.C. Regulation as it pertains to the manufactured milk market, and has the same meaning as provincial quota under the Federal Regulations;

“**Qualifying Milk**” has the meaning as defined in the *Milk Industry Act*, R.S.B.C. 1996, c. 289;

“**Quota**” means one, or a combination, of:

(a) Continuous Daily Quota;

(b) Federal Fluid Quota;

(c) Federal Manufactured Milk Quota;

(d) Provincial Fluid Quota; or

(e) Provincial Manufactured Milk Quota;

and includes a share of such Quota when allotted to Producers;

“**Related Producers**” mean:

(a) a Producer that is a corporation and a Producer that has a direct or indirect interest in that corporation, whether by means of shares in that corporation (and irrespective of the class of shares) or by way of a share interest in a parent corporation;

(b) any two or more Producers that carry on business in partnership, each with the other; or

(c) any two or more Producers, if they are controlled by the same Person or group of Persons;

“**Related Vendors**” mean:

(a) a Vendor that is a corporation and a Vendor that has a direct or indirect interest in that corporation, whether by means of shares in that corporation (and irrespective of the class of shares) or by way of a share interest in a parent corporation;

(b) any two or more Vendors that carry on business in partnership, each with the other; or

(c) any two or more Vendors, if they are controlled by the same Person or group of Persons;

“**Remote Region**” means those regions within the Province of British Columbia excluding Bulkley Valley, Cariboo, Fraser Valley, Kootenays, Okanagan, Peace River and Vancouver Island;

"**Special Allotment**" means:

(a) a general allotment of Continuous Daily Quota by the Board;

(b) an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

(c) an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2.

"**Special Classes**" means milk classified in sub-class 4(m) or in any of sub-classes 5(a)-(d) provided to a holder of a valid Special Milk Class Permit issued by the Commission;

"**Transfer**" means the direct or indirect transfer of a legal or equitable interest in Continuous Daily Quota, an Over Production Credit, or an Under Production Credit, or the grant of an option to transfer an interest in same, but does not include an assignment of Continuous Daily Quota in favour of a bona fide lender of a security interest in the Continuous Daily Quota;

"**Transferee**" means the Person to whom Continuous Daily Quota, an Over Production Credit, or an Under Production Credit is being Transferred;

"**Transferor**" means the Person from whom Continuous Daily Quota, an Over Production Credit, or an Under Production Credit is being Transferred;

"**Under Production Credit**" means the number of kilograms of butterfat that is equal to the amount of Monthly Production Entitlement not Delivered by a Producer in a month, up to a maximum equal to the amount of Continuous Daily Quota allotted to that Producer multiplied by 15, less the aggregate number of kilograms of butterfat Delivered by that Producer in excess of any Monthly Production Entitlement and any available Under Production Credit in any previous month;

"**Valid Licence**" means a current and subsisting licence of the applicable class issued by the Board to a Person in good standing with respect to each and every requirement therefor;

"**Vendor**" means any Processor dealing in milk or manufactured milk products by purchase or sale, and includes a Producer Vendor, but does not include a Producer as such;

"**Vita D Qualifying Milk**" means Qualifying Milk that is:

(a) obtained from cows that are fed a unique plant source of Vitamin D in a concentration that has been verified by an independent laboratory; and

(b) marketed in a manner that is authorized by the Canadian Food Inspection Agency.

APPENDIX F

C.O. September 1, 2013
Section II Licensing

PART II - LICENSING

Requirement to Hold Licence

4. (1) No Person shall act as a Vendor, Producer or Producer Vendor unless in possession of a Valid Licence issued by the Board and no Person shall be relieved of compliance with the requirements in respect of any class of licence on the grounds that such Person is the holder of a Valid Licence of another class.

(2) Where Persons carry on business in partnership, each with the other, a Valid Licence may be issued by the Board in the names of each of the partners and in the business name carried on by those partners, if any. Such licence is subject to cancellation upon order of the Board in the event of a change in the membership of the partnership with respect to a Person or Persons having an interest of 50% or more in the partnership.

(3) Where a Valid Licence has been issued by the Board to a corporation, such licence is subject to cancellation upon order of the Board in the event of a change in the ownership, direct or indirect, of the majority voting shares of the corporation.

Application Process

5. Every application for a licence must be made to the Board in the required form with the required licence fee.

General Conditions

6. (1) It is a condition of issuance and maintenance of every licence that the applicant or holder complies with orders of the Board from time to time in force.

(2) No licence may be issued by the Board unless the applicant has complied with all government requirements applicable to the applicant's operations, including the regulations made under the *Milk Industry Act*.

(3) Licences are issued on an annual basis expiring at the end of the Dairy Year.

Licence Classes

7. The Board may issue annual licences as follows:

(a) Class "A" Vendor Licence and Class "A-FED" Vendor Licence to a Vendor, for each Dairy Plant operated by that Vendor which processes milk into fluid milk products and which may process milk into manufactured milk products, who:

(i) has a valid and subsisting licence issued under the *Milk Industry Act* for the operation of that Dairy Plant;

(ii) has valid and subsisting dairy plant process worker licences for all dairy plant personnel as required under the *Milk Industry Act*; and

(iii) undertakes, as a condition of issuance of the licence, to receive milk on each and every day of the week, and at such time or times as the Board may direct.

(b) Class “B” Vendor Licence to a Vendor, for each Dairy Plant operated by that Vendor and which processes or markets only manufactured milk products for that market, who:

(i) has a valid and subsisting licence issued under the *Milk Industry Act* for the operation of that Dairy Plant; and

(ii) has valid and subsisting dairy plant process worker licences for all dairy plant personnel as required under the *Milk Industry Act*; and

(iii) undertakes, as a condition of issuance of the licence, to receive milk on each and every day of the week, and at such time or times as the Board may direct.

(c) Class “C” Producer Licence and Class “C-FED” Producer Licence to a Producer, for each dairy farm operated by that Producer, who:

(i) has a valid and subsisting Dairy Farm Licence issued under the *Milk Industry Act* classifying the farm as an approved dairy farm;

(ii) has a minimum allotment of 4.1 kilograms of Continuous Daily Quota;

(iii) undertakes to sell, ship for sale and offer for sale all milk produced on the farm through the Board, and at such time or times as the Board may direct;

(iv) after the licence has been issued, displays that licence in the vicinity of the farm bulk milk tank and in view of the milk hose connection outlet;

(v) permanently installs and maintains as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production, in the event that such Producer is also the holder of a Class "A" and Class "A-FED" Vendor Licence or a Class "B" Vendor Licence;

(vi) in the alternative to (v), at that Producer's expense, will commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and shall, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board, in the event that such Producer is also the holder of a Class "A" and Class "A-FED" Vendor Licence or a Class "B" Vendor Licence;

(d) Class "D" Producer Vendor Licence to a Producer, for the dairy farm operated by that Producer, who:

(i) is a current and subsisting participant in the Cottage Industry Program in full compliance with all of the requirements of that program;

(ii) has a valid and subsisting Dairy Farm Licence issued under the *Milk Industry Act* classifying the farm as an approved dairy farm;

(iii) does not own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;

(iv) has a minimum allotment of 4.1 kilograms of Continuous Daily Quota consisting wholly or partially of Continuous Daily Quota allotted under the Cottage Industry Program;

(v) operates a Dairy Plant on that dairy farm and undertakes, as a condition of issuance of the licence, that the Dairy Plant processes only milk produced by that Producer's own cows (unless otherwise permitted under the terms of the Cottage Industry Program) and only into consumer-ready manufactured milk products approved by the Board;

(vi) in the alternative to paragraph (v):

A. operates a Dairy Plant on that dairy farm which is situated within a Remote Region;

B. is engaged exclusively in the production and processing of breed-specific certified organic milk; and

C. undertakes, as a condition of issuance of the licence, that the Dairy Plant processes only milk produced by that Producer’s own cows (unless otherwise permitted under the terms of the Cottage Industry Program) and only into consumer-ready manufactured milk products and/or consumer-ready fluid milk products approved by the Board, provided that:

I. any such fluid milk products that are processed from milk produced by that Producer’s own cows are processed from milk produced under Continuous Daily Quota that was purchased by that Producer through the Quota Exchange, or acquired by that Producer by way of a general allotment of Continuous Daily Quota made by the Board; and

II. milk produced by that Producer’s own cows for the processing of fluid milk products does not exceed 27.4 kilograms of Continuous Daily Quota;

(vii) has a valid and subsisting licence issued under the *Milk Industry Act* for the operation of that Dairy Plant;

(viii) has valid and subsisting dairy plant process worker licences for all dairy plant personnel as required under the *Milk Industry Act*;

(ix) is ineligible to receive milk from another Vendor or Producer (unless otherwise permitted under the terms of the Cottage Industry Program);

(x) does not market fluid milk, unless that Producer qualifies under paragraph (vi);

(xi) permanently installs and maintains as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;

(xii) in the alternative to paragraph (xi), at that Producer's expense, will commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and shall, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board;

(xiii) without the written approval of the Board, is ineligible to sell, ship for sale or offer for sale any milk produced on the farm; and

(xiv) does not hold any other class of licence, unless otherwise approved by the Board.

(e) Class "E" Producer Vendor Licence to a Producer, for the dairy farm operated by that Producer, who:

(i) has a valid and subsisting Dairy Farm Licence issued under the *Milk Industry Act* classifying the farm as an approved dairy farm;

(ii) does not own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;

(iii) has a production volume that does not exceed 4.1 kilograms of butterfat per day;

(iv) has situated that dairy farm in a secluded area that is not serviced by road or by ferry with vehicular access;

(v) operates a Dairy Plant on that dairy farm and undertakes, as a condition of issuance of the licence, that the Dairy Plant processes only milk produced by that Producer's own cows and only into consumer-ready fluid and manufactured milk products;

(vi) markets all consumer-ready fluid and manufactured milk products processed by that Dairy Plant at the farm gate, or otherwise to local retailers or local wholesalers situate within the aforesaid secluded area that is not serviced by road or by ferry with vehicular access;

(vii) has a valid and subsisting licence issued under the *Milk Industry Act* for the operation of that Dairy Plant;

(viii) has valid and subsisting dairy plant process worker licences for all dairy plant personnel as required under the *Milk Industry Act*;

(ix) is ineligible to receive milk from another Vendor or Producer;

(x) permanently installs and maintains as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;

(xi) in the alternative to (x), at that Producer's expense, will commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and shall, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board;

(xii) without the written approval of the Board, is ineligible to sell, ship for sale or offer for sale any milk produced on the farm except in accordance with (vi); and

(xiii) does not hold any other class of licence, unless otherwise approved by the Board.

Licence Fee

8. The annual licence fee payable to the Board for each class of licence is $10.00 and is non-refundable.

Renewal

9. At the commencement of a Dairy Year, the Board will renew:

(a) every existing Producer licence without application, provided that the holder has paid the licence fee and maintained compliance with all orders of the Board; and

(b) Vendor licences upon receipt of the prescribed application form and licence fee and provided that the Vendor has maintained compliance with all orders of the Board.

No Transferability of Licences

10. Licences issued under this Consolidated Order are not transferable.

APPENDIX G
C.O. September 1, 2013
Section III Allotment & Registration of Quota

PART III - ALLOTMENT AND REGISTRATION OF QUOTA

Form in Which Quota is Allotted

11. (1) All Quota allotted to a Producer shall be allotted as Continuous Daily Quota expressed in kilograms of butterfat per day.

(2) Continuous Daily Quota allotted to a Producer shall be deemed to be derived, in part, from:

(a) an allotment of a concurrent quantity of Provincial Fluid Quota and Federal Fluid Quota expressed in kilograms of butterfat per day; and

(b) an allotment of a concurrent quantity of Provincial Manufactured Milk Quota and Federal Manufactured Milk Quota expressed in kilograms of butterfat per day.

General Principles of Allotment

12. (1) When Provincial Fluid Quota is allotted, an equivalent quantity of Federal Fluid Quota is allotted contemporaneously. Such Provincial Fluid Quota and Federal Fluid Quota is held for production concurrently as Continuous Daily Quota.

> **Example: If 10 kilograms of Provincial Fluid Quota is allotted to a Producer, 10 kilograms of Federal Fluid Quota is allotted to that Producer contemporaneously. The 10 kilograms of Provincial Fluid Quota and the 10 kilograms of Federal Fluid Quota is held for production concurrently as 10 kilograms of Continuous Daily Quota.**

(2) When Provincial Manufactured Milk Quota is allotted, an equivalent quantity of Federal Manufactured Milk Quota is allotted contemporaneously. Such Provincial Manufactured Milk Quota and Federal Manufactured Milk Quota is held for production concurrently as Continuous Daily Quota.

> **Example: If 10 kilograms of Provincial Manufactured Milk Quota is allotted to a Producer, 10 kilograms of Federal Manufactured Milk Quota is allotted to that Producer contemporaneously. The 10 kilograms of Provincial Manufactured Milk Quota and the 10 kilograms of Federal Manufactured Milk Quota is held for production concurrently as 10 kilograms of Continuous Daily Quota.**

Allotment of Continuous Daily Quota

13. (1) Without the written consent of the Board, a licensed Producer shall not be permitted to hold an allotment of Continuous Daily Quota exceeding 5.0% of the Continuous Daily Quota allotted by the Board to all Producers. This limitation applies to all Continuous Daily Quota allotted by the Board to a Producer including that in which a Person may have an interest by means of partnership, corporate agreement or share equity.

(2) The Board may allot new Continuous Daily Quota or adjust or reduce allotted Continuous Daily Quotas to such Producers, at such time or times, in such amounts and in such a manner as may be determined by it. In the event that the Board decides to allot new Continuous Daily Quota, it shall:

(a) consult with the British Columbia Milk Industry Advisory Committee and the British Columbia Specialty Production Advisory Committee;

(b) have regard to differences in market growth among Conventional Production and each class of Organic Production; and

(c) allot such Continuous Daily Quota only to licensed Producers who are in full compliance with this Consolidated Order, the B.C. Act, the B.C. Regulation and other relevant legislation, and on a pro rata basis according to each such Producer's share of the Continuous Daily Quota allotted by the Board to all Producers within each class of production;

(3) Following allotment of Continuous Daily Quota by the Board, notice of the amount of Continuous Daily Quota so allotted to a Producer will be provided by the Board to the Producer.

(4) Where a Producer operates more than one dairy farm, Continuous Daily Quota allotted to that Producer will be apportioned by the Board to each such dairy farm in accordance with subsection (2) and in proportion to the Continuous Daily Quota then held for production with respect to each such dairy farm.

Special Allotment of Continuous Daily Quota Under Graduated Entry Program

14. The Board may allot Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1.

Special Allotment of Continuous Daily Quota Under Cottage Industry Program

15. The Board may allot Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2.

Registration of Continuous Daily Quota

16. (1) Where a Producer carries on business as a sole proprietor, Continuous Daily Quota allotted to that Producer will be registered by the Board in the name of the Producer and in the business name carried on by that Producer, if any.

(2) Where Producers carry on business in partnership, each with the other, Continuous Daily Quota allotted to those Producers is deemed to have been allotted in proportion to the interest of each such Producer in the control or financial growth of the partnership, and will be registered by the Board in the names of each of the partners and in the business name carried on by those partners, if any. At the time of first registration, and subsequently as required by the Board, the partners shall file with the Board a true copy of the partnership agreement showing the name of each partner and the interest that each partner has in the partnership. The partners shall further inform the Board in writing one calendar month before any change is made with respect to the interest of each partner in the partnership.

(3) Where a Producer is a corporation, Continuous Daily Quota allotted to that Producer is deemed to have been allotted in proportion to the interest of each individual having a direct or indirect interest in the control or financial growth of that corporation, whether by means of shares in that corporation (and irrespective of the class of shares) or by way of a share interest in a parent corporation, and will be registered by the Board in the name of the corporation and in the names of each of the individuals having such a direct or indirect interest in that corporation. At the time of first registration, and subsequently as required by the Board, the corporation shall file with the Board:

(a) a list of the names and addresses of the officers of the corporation;

(b) true copies of its Certificate of Incorporation, Central Securities Register and Register of Directors; and

(c) true copies of the Certificates of Incorporation, Central Securities Registers and Registers of Directors for each parent corporation having a direct or indirect interest in that corporation.

The corporation shall further inform the Board in writing one calendar month before any change is made with respect to the share allotment within, or structure of, the corporation.

(4) Failure by a Producer to provide the Board with any of the documents required by the Board within the time specified by the Board shall result in the suspension of the offending Licensee's licence and Continuous Daily Quota until the required document is filed and approved by the Board.

Temporary Production Permits

17. (1) Where necessary to meet market demand for Organic Production, the Board may, in its sole discretion, issue temporary production permits to Producers, or to any class or group of Producers, on such terms and conditions as the Board may in its sole discretion deem appropriate.

(2) Temporary production permits are:

(a) expressed in kilograms of butterfat per day;

(b) designated to be used for the purpose of engaging in Conventional Production, or Organic Production of a particular class, as the case may be;

(c) non-transferrable;

(d) temporary, and:

(i) subject to revocation by the Board for any reason on three months' notice to the Producer who has been issued a temporary production permit;

(ii) subject to immediate revocation in the event of non-compliance with this Consolidated Order;

(iii) subject to immediate and automatic revocation where, and to the extent to which, the Producer who has been issued a temporary production permit has acquired further Continuous Daily Quota by general allotment or otherwise.

APPENDIX H

C.O. September 1, 2013 Section IV Transfer of Total Production Quota

PART IV - TRANSFER OF TOTAL PRODUCTION QUOTA

Limitations on Transfer of Continuous Daily Quota

18. (1) Continuous Daily Quota may only be Transferred:

(a) in amounts divisible by one-tenth of a kilogram;

(b) for the purpose of engaging in:

(i) Conventional Production, where the Continuous Daily Quota was used for that purpose prior to the date of Transfer; or

(ii) Organic Production of the same class as the Continuous Daily Quota was so used prior to the date of Transfer;

provided, nevertheless, that the Board may in its sole discretion permit Continuous Daily Quota to be Transferred as Continuous Daily Quota that may be used for the purpose of engaging in Conventional Production, Organic Production, or Organic Production of a different class, as the case may be.

(c) upon application to, and with the approval of, the Board;

(d) through the Quota Exchange, excepting:

(i) Transfers to Exempt Persons;

(ii) Subject to subsection (2), Transfers which constitute a Going Concern Sale;

(iii) Transfers which constitute a Credit Transfer;

(iv) deemed Transfers between Producers who are existing partners in a partnership;

(v) deemed Transfers between individuals who have an existing direct or indirect interest in a corporate Producer;

(vi) Transfers from a Producer to a corporate Producer in which the Producer has an existing direct or indirect interest; or

(vii) deemed Transfers to the executor, administrator or trustee of a deceased Producer.

(2) Where Continuous Daily Quota is Transferred in the context of a Going Concern Sale, at least 50% of the Continuous Daily Quota allotted to the Transferor must be Transferred through the Quota Exchange.

Quota Exchange

19. The Quota Exchange shall be operated by the Board in accordance with this Consolidated Order and the Quota Exchange Rules set out in Schedule 3.

No Commission on Transfer

20. No commission or other remuneration shall be payable to the Board in respect to the Transfer of Continuous Daily Quota.

Application to Transfer Continuous Daily Quota or Credits

21. (1) Applications to Transfer Continuous Daily Quota other than through the Quota Exchange:

(a) must be provided to the Board on or before 1:00 p.m. on the first Business Day of the month preceding the month in which the Transfer is to occur; and

(b) will be approved only on the first day of the month following receipt of the application;

(2) The Board will not consider applications to Transfer Over Production Credits or Under Production Credits:

(a) concerning an amount that is less than 25 Credits;

(b) where the application, if approved for an effective date on or after August 1, 2013:

(i) would cause a Producer who holds an allotment of Continuous Daily Quota equal to or less than 40 kilograms, to have:

A. received more than 10.27 Credits by way of Credit Transfers over any rolling 12 month period; or

B. received or disposed of Over Production Credits or Under Production Credits such that the aggregate amount of Credits so Transferred over any rolling 12 month period is more than 15% of that Producer's allotment of Continuous Daily Quota;

(ii) would cause a Producer who holds an allotment of Continuous Daily Quota greater than 40 kilograms, to have received or disposed of Over Production Credits or Under Production Credits such that the aggregate amount of Credits so Transferred over any rolling 12 month period is more than 15% of that Producer's allotment of Continuous Daily Quota;

(c) where the application, if approved on or after February 1, 2014:

(i) would cause a Producer who holds an allotment of Continuous Daily Quota equal to or less than 40 kilograms, to have:

A. received more than 6.85 Credits by way of Credit Transfers over any rolling 12 month period; or

B. received or disposed of Over Production Credits or Under Production Credits such that the aggregate amount of Credits so Transferred over any rolling 12 month period is more than 10% of that Producer's allotment of Continuous Daily Quota;

(ii) would cause a Producer who holds an allotment of Continuous Daily Quota greater than 40 kilograms, to have received or disposed of Over Production Credits or Under Production Credits such that the aggregate amount of Credits so Transferred over any rolling 12 month period is more than 10% of that Producer's allotment of Continuous Daily Quota.

(3) The Board may refuse to approve a Transfer where the Transferor or the Transferee is not in compliance with the B.C. Act, the B.C. Regulation, the Milk Industry Act, other relevant legislation, or orders of the Board.

(4) The Board may impose conditions with respect to any approval of a Transfer.

(5) The Board may suspend the approval of Transfers for a definite or indefinite period of time.

Transfer of All or Substantially All Continuous Daily Quota

22. (1) Any Producer applying to Transfer 60% or more of the Producer's Continuous Daily Quota in any twelve month period, or intending to leave the regulated milk industry, may be required to enter into an agreement with the Board in such form as the Board may from time to time consider appropriate.

(2) Any Producer intending to leave the regulated milk industry shall give written notice to the Board of the date and time the Producer expects to cease production. Such notice shall be given immediately and:

(a) where the Producer is a Certified Organic Producer, not later than 90 days prior to the date the Producer expects to cease production;

(b) where the Producer is not a Certified Organic Producer, not later than 7 days prior to the date the Producer expects to cease production.

Surrender of Continuous Daily Quota on Transfer

23. (1) Subject to subsections (3) and (7), where Continuous Daily Quota is Transferred, the Transferor shall surrender to the Board an amount of Continuous Daily Quota equal to the aggregate of:

(a) 5% of the amount of Continuous Daily Quota being Transferred (rounded to the nearest tenth of a kilogram), where such Continuous Daily Quota was:

(i) allotted pursuant to a general allotment made by the Board prior to September 1, 2005; or

(ii) allotted to the Transferor other than pursuant to a Special Allotment;

(b) 100% of the amount of Continuous Daily Quota:

(i) allotted within one year from the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(c) 90% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within the second year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(d) 80% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within the third year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(e) 70% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within the fourth year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(f) 60% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within the fifth year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(g) 50% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within the sixth year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(h) 40% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within the seventh year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(i) 30% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within the eighth year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(j) 20% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within the ninth year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred;

(k) 10% of the amount of Continuous Daily Quota (rounded to the nearest tenth of a kilogram):

(i) allotted within, or prior to, the tenth year preceding the date of the proposed Transfer; and

(ii) allotted pursuant to:

A. a general allotment made by the Board on or after September 1, 2005; or

B. an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1; or

C. an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2;

where all or any part of such allotment is being Transferred.

(2) For the purposes of subsection (1):

(a) the Continuous Daily Quota being surrendered is deemed to be the Continuous Daily Quota most recently allotted to the Transferor; and

(b) subject to paragraph (a), the Continuous Daily Quota being Transferred is deemed to be the Continuous Daily Quota most recently allotted to the Transferor.

(3) When a Person who has not commenced Deliveries of Qualifying Milk Transfers Continuous Daily Quota registered in that Person's name and allotted to the Transferor other than pursuant to a Special Allotment, such Person shall surrender to the Board an amount of Continuous Daily Quota equivalent to 20% of the amount of Continuous Daily Quota being Transferred (rounded to the nearest tenth of a kilogram).

(4) Where the interest of a Producer in a partnership is increased, decreased or transferred, a proportionate Transfer of the Continuous Daily Quota deemed to have been allotted to such Producer is deemed to occur.

(5) Where the direct or indirect interest of an individual in a corporate Producer is increased, decreased or transferred, a proportionate Transfer of the Continuous Daily Quota deemed to have been allotted to such individual is deemed to occur.

(6) Upon the death of a Producer, the Continuous Daily Quota allotted to that Producer is deemed to have been Transferred to that Producer's executor, administrator or trustee, as the case may be.

(7) A surrender of Continuous Daily Quota is not required where:

(a) Continuous Daily Quota is Transferred to an Exempt Person;

(b) Continuous Daily Quota is Transferred by a Person to that Person's brother or sister in circumstances where the entirety of the Continuous Daily Quota so Transferred is held for production by the Transferee at the same dairy farm as was operated by the Transferor immediately prior to such Transfer;

(c) the Transfer constitutes a Credit Transfer;

(d) a deemed Transfer of Continuous Daily Quota is to partners who are Exempt Persons or siblings or to shareholders who are Exempt Persons or siblings;

(e) the amount of Continuous Daily Quota deemed to have been allotted to a Producer having an interest in a partnership remains registered in that Producer's name upon dissolution of the partnership;

(f) Continuous Daily Quota is Transferred by the executor, administrator or trustee of a deceased Producer to a beneficiary of the deceased Producer.

Deferral or Waiver of Surrender on Deemed Transfer to Executor, Administrator or Trustee

24. (1) In the event of a deemed Transfer to a Producer's executor, administrator or trustee, the Board may, in its sole discretion, defer or waive the imposition of a surrender of Continuous Daily Quota if the Board is satisfied that there will be, within a reasonable time frame, a subsequent Transfer of that Continuous Daily Quota from the executor, administrator or trustee which would not be subject to a surrender of Continuous Daily Quota if that subsequent Transfer had been made by the deceased Producer.

(2) Where the Board has declined to exercise its discretion to defer or waive the imposition of a surrender of Continuous Daily Quota under subsection (1), and there is a subsequent Transfer of Continuous Daily Quota from the executor, administrator or trustee which would not be subject to a surrender of Continuous Daily Quota if that subsequent Transfer had been made by the deceased Producer, the Board may, in its sole discretion, allot to the Transferee an amount of Continuous Daily Quota equivalent to the amount surrendered to the Board on the deemed Transfer to the Producer's executor, administrator or trustee.

Application to Re-Allocate Continuous Daily Quota

25. A Producer who operates more than one dairy farm may re-allocate the Continuous Daily Quota apportioned by the Board to each such dairy farm only upon application to, and with the written approval of, the Board.

APPENDIX I

C.O. September 1, 2013 Section VI Classification of Quality Milk

PART VI - CLASSIFICATION OF QUALIFYING MILK

Classification by Utilization

30. All Qualifying Milk received by a Vendor through the Board is classified on the basis of utilization as follows:

Class of Milk	Utilization
1(a)	Milk sold by a Vendor in fresh or fluid form and includes the milk portion of any dairy product marketed to consumers through retail or food service as milk or milk beverages, partly skimmed or skimmed, whether or not treated for lactose intolerance, whether flavoured or not, with or without vitamins or minerals and all U.H.T. milk. Milk in this class is not limited to standard milk (3.25%), 2%, 1%, Eggnog, Cordials, Cultured Milk, and reconstituted concentrated milk.
1(b)(i)	Milk sold by a Vendor in fresh or fluid form and includes (but is not limited to) the milk portion of any dairy product marketed to consumers as cream in liquid form with a butterfat content not less than 5% for retail and food service and may include 6% cream, 10% cream, 18% cream, whipping cream and all U.H.T. cream.
1(b)(ii)	Milk sold by a Vendor in fresh or fluid form and includes (but is not limited to) the milk portion of any dairy product marketed as cream with a butterfat content of 32% and higher used to make fresh baked goods which are not eligible for a Class 5 permit (A valid CDC administered class 1bii permit is required for this sub-class).
1(c)	New class 1(a) or 1(b) products for retail or food service as approved by the provincial authority and subject to innovation pricing discounts approved by the Western Milk Pool.
1(d)	Milk and cream marketed outside the ten signatory provinces but within the Canadian boundaries, (e.g. Yukon, NWT, Nunavut and cruise ships).
2(a)	Milk utilized in the manufacture of yogurt cultured products including yogurt beverages, Kefir and Lassi, but excluding frozen yogurts.
2(b)	Milk utilized in the manufacture of sour cream, ice cream, ice cream mix (whether frozen or not), all types of milk shake mix, frozen yogurt, other frozen dairy products, meal replacements, “cafeinate”, soup bases, fudge, puddings and Indian Sweets.
3(a)	Milk sold to a Vendor and utilized in the manufacture of cheese not otherwise specified in Class 3(b), 3(c) and 3(d), and includes (but is not limited to) cottage cheese, fresh curd and specialty cheese (all as defined by the Board).
3(b)	Milk sold to a Vendor and utilized in the manufacture of cheddar cheese, light cheddar cheese, cheese bases and mixes, cream cheese, and stirred curd.
3(c)	Milk sold to a Vendor and utilized in the manufacture of any type of Mozzarella except when declared in Class 3(d), Asiago, Brick, Canadian Style Munster (Muenster), Colby, Farmer, Feta, Gouda, Havarti, Jack, Monterey Jack, Parmesan or Swiss.
3(d)	Milk sold to a Vendor and utilized in the manufacture of standardized mozzarella cheeses marketed in packages of 2.27 kg or more to be used strictly on fresh pizzas by establishments registered with the Commission under terms and conditions approved by the CMSMC.
4(a)	Milk sold to a Vendor and utilized in the manufacture of all types of butter, butter oil, all types of milk powder and casein, condensed milk used as an ingredient in the non-dairy food industry and all other products not elsewhere stated.
4(a)(i)	Milk components for the manufacture of rennet casein (dry or curd), Milk Protein Concentrate (dry or liquid) or Skim Milk (dry or liquid) to be used in the manufacture of non-standardized final products in the processed cheese category or in weight/muscle gain formulations, meal replacement products, medical and sports recovery drinks and infant food formulations destined for retail sale is subject is subject to national pricing and administration.
4(b)	Milk sold to a Vendor and utilized in the manufacture of concentrated milk.

Class of Milk	Utilization
4(c)	Milk utilized for an unclassified new product (with classification to another sub-class of Qualifying Milk to occur within twelve months of receiving Class 4(c) classification) and subject to innovative pricing discounts approved by the Western Milk Pool.
4(d)	Milk considered as inventory or plant losses.
4(d)(i)	Bulk raw milk or cream transported out of the Province of British Columbia to Alberta, Saskatchewan or Manitoba.
4(m)	Milk used in the manufacture of processed animal feed or otherwise used in a marginal domestic disposal market.
5(a)	Milk means the equivalent volume of milk utilized to manufacture cheese ingredients used for further processing for the domestic and export markets, pursuant to a valid Special Milk Class Permit issued by the Commission.
5(b)	The equivalent volume of milk utilized in the manufacture of all dairy products, other than cheese, used for further processing for the domestic and export markets, pursuant to a valid Special Milk Class Permit issued by the Commission.
5(c)	The equivalent volume of milk utilized in the confectionery sector, pursuant to a valid Special Milk Class Permit issued by the Commission.
5(d)	The equivalent volume of milk utilized in the manufacture of dairy products for export outside Canada, pursuant to a valid Special Milk Class Permit by the Commission.

APPENDIX J

C.O. September 1, 2013 Schedule 1 Graduated Entrant Program

SCHEDULE 1 - GRADUATED ENTRY PROGRAM RULES

Definitions

1. In these Rules:

"**Independent Production Unit**" means a dairy farm that is geographically and operationally separate from a dairy farm on which any other Person is actively engaged in milk production;

"**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

2. (1) The Board may from time to time call for applications to participate in the Graduated Entry Program, and in that event only, a Person may apply to participate in the Graduated Entry Program by filing with the Board:

(a) an application form, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public;

(b) a copy of the applicant's birth certificate or other proof of age acceptable to the Board;

(c) proof of Canadian citizenship or permanent resident status;

(d) proof of permanent resident status in the Province of British Columbia; and

(e) a non-refundable application fee of $250.00.

(2) A Person seeking to participate in the program must have the following qualifications:

(a) a genuine intention to be actively engaged in milk production;

(b) be a Canadian citizen or permanent resident of Canada;

(c) be a permanent resident in the Province of British Columbia;

(d) be at least 19 years of age at the time of application; and

(e) neither the applicant nor the Spouse of the applicant may have, or have had at any time, any financial interest in Continuous Daily

Quota, or any other licence, permit or quota issued, allotted or granted by any other supply management commodity board or commission in Canada, whether directly or indirectly, or through any organization or entity.

(3) An applicant for the Graduated Entry Program may be a partnership in which case each partner must qualify under subsection (2).

Wait List

3. (1) Where there are more applicants than the program can accommodate, the excess applicants will be placed on a wait list in the order in which complete application packages are received by the Board.

(2) Where an applicant is in breach of Board orders, or applicable legislation, that applicant's name will not be placed on the wait list.

(3) Positions on the wait list are:

(a) non-transferable, under any circumstances;

(b) not available to be pledged as security; and

(c) subject to renewal on or prior to April 1 of each calendar year following the calendar year in which the application was first filed with the Board, by completion of an annual renewal form and payment of an annual non-refundable renewal fee of $100.00.

(4) Persons on the wait list may have their applications rejected and their wait list position cancelled for any of the following:

(a) breach of Board orders or applicable legislation;

(b) making false statements on the application form;

(c) changes in circumstances such that an applicant no longer qualifies;

(d) changes in legislation adversely affecting the Graduated Entry Program;

(e) an NSF cheque for the application or annual renewal fee; or

(f) failure to file the annual renewal notice or failure to pay the annual non-refundable renewal fee;

Entry in Program

4. (1) The Board:

   (a) will invite a minimum of three applicants to enter the Graduated Entry Program each year;

   (b) may establish a maximum number of applicants who will be invited to enter the Graduated Entry Program in a year and that maximum number may vary from year to year; and

   (c) may, in its sole discretion, preferentially invite an applicant to enter the Graduated Entry Program where that applicant has a genuine intention to be actively engaged in Organic Production, subject to the applicant's place on the wait list relative to any other applicants having a genuine intention to be actively engaged in Organic Production.

(2) Where an applicant from the wait list is invited by the Board to become an entrant to the Graduated Entry Program, the following provisions apply:

   (a) the entrant shall file a "Program Entry" application, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public;

   (b) in the event the entrant is in breach of any of those matters which would cause an applicant to be struck off the wait list, the entrant's invitation shall be revoked;

   (c) the entrant shall obtain a Producer licence from the Board of the appropriate class;

   (d) the entrant, including all partners if the entrant is a partnership, must meet with the Board prior to August 1 of the year when the invitation is extended and must present a 5 year business plan, containing information deemed appropriate by the Board, including:

      (i) proof, in a form satisfactory to the Board, of the entrant's financial ability to establish an acceptable Independent Production Unit for the production of milk; and

      (ii) proof, in a form satisfactory to the Board, that the entrant has economically viable plans to sustain the production of milk on an acceptable Independent Production Unit;

(e) commencing August 1, upon receipt of the production of a qualifying entrant by a Vendor, the Board will allot to the entrant 13.7 kilograms of Continuous Daily Quota;

(f) the entrant must commence production between August 1 and the following January 31, failing which the entrant's participation in the program shall be terminated.

Special Restrictions on Allotments Under the Program

5. (1) Continuous Daily Quota allotted by the Board under the program may be held for production by the entrant only for so long as the entrant:

(a) permits Board audits of the Independent Production Unit operation to ensure compliance with Board orders and all applicable legislation, including all terms and conditions of the program;

(b) is in good standing with all applicable Board orders and all applicable legislation, including all terms and conditions of the program; and

(c) is actively engaged in milk production;

failing which the Continuous Daily Quota so allotted shall thereupon be subject to immediate cancellation on notice by the Board to the entrant.

(2) The special restrictions on allotments described in subsection (1) shall apply for a period of ten years commencing with the entrant's entry in the program. Upon expiry of that ten year period, the special restrictions will no longer apply to the entrant.

Matching Allotment of Continuous Daily Quota

6. (1) Where an entrant purchases or acquires Continuous Daily Quota (other than by a general allotment of new Continuous Daily Quota) within five years from the date that the entrant commences production, the Board will allot to the entrant an equivalent amount of Continuous Daily Quota, up to a maximum of 5.5 kilograms of Continuous Daily Quota.

(2) Matching allotments of Continuous Daily Quota made by the Board under subsection (1) are subject to the special restrictions described in section 5.

Determination as to Whether the Entrant is Actively Engaged in Milk Production

7. (1) The Board will determine, in its sole discretion, whether an entrant is actively engaged in milk production for the purposes of the program. Without limiting the generality of the foregoing, the Board will have regard to the following factors:

(a) whether the Continuous Daily Quota allotted under the program 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; and

(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 milk, the Board 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 Board that the entrant is primarily engaged in the business of administering Continuous Daily Quota allotted under the program, and that some other Person is primarily engaged in the business of milk production associated with that Continuous Daily Quota, the entrant shall be deemed not to be actively engaged in milk production.

Changes to the Graduated Entry Program

8. (1) Applicants on the wait list and entrants under the program are subject to all changes that the Board may make from time to time to the terms and conditions of the program.

(2) Notwithstanding subsection (1), the Board may, in its sole discretion, provide to an entrant a written exemption from any term or condition of the program that has come into effect after the entrant's entry into the program, in which event the entrant shall continue to be governed by the terms and

conditions of the program as they existed at the time of the entrant's entry into the program except insofar as those terms and conditions may conflict with any subsequent term or condition for which a written exemption had not been granted.

APPENDIX K

C.O. September 1, 2013 Schedule 2 Cottage Industry Program

SCHEDULE 2 - COTTAGE INDUSTRY PROGRAM RULES

Application

1. (1) These Rules apply to all existing Cottage Industry Program Participants. Where the provisions of the Consolidated Order are inconsistent with the terms of any Agreements made between the Board and any existing Cottage Industry Program Participant, the provisions of the Consolidated Order shall govern and be binding upon such existing Cottage Industry Program Participant.

(2) A Person who has not previously participated in the Cottage Industry Program or predecessor program may apply to participate in the Cottage Industry Program by filing with the Board an application form, obtainable from the Board, completed and sworn before a Commissioner for Taking Oaths or Notary Public, provided that neither the applicant nor the spouse of the applicant may have, or have had at any time, any financial interest in Continuous Daily Quota, or any other licence, permit or quota issued or granted by any other supply management commodity board, whether directly or indirectly, or through any organization or entity.

(3) A Person seeking to participate in the program must undertake in writing:

(a) not to own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;

(b) to operate a Dairy Plant on a dairy farm owned by that Person;

(c) to process at that Dairy Plant only milk produced by that Person's own cows (unless otherwise permitted under the terms of the Cottage Industry Program);

(d) to process such milk at that Dairy Plant only into specified manufactured milk products approved by the Board, or if the Dairy Plant is situated within a Remote Region and the Person is engaged exclusively in the production and processing of breed-specific certified organic milk, to process such milk at that Dairy Plant only into specified manufactured milk products and/or fluid milk products approved by the Board, provided that:

(i) any such fluid milk products that are processed from milk produced by that Producer's own cows are processed from milk produced under Continuous Daily Quota that was purchased by that Producer through the Quota Exchange, or acquired by that Producer by way of a general allotment of Continuous Daily Quota made by the Board; and

(ii) milk produced by that Producer’s own cows for the processing of fluid milk products does not exceed 27.4 kilograms of Continuous Daily Quota;

(e) to market such specified milk products only in a consumer-ready form at the time of sale;

(f) not to receive milk from another Vendor or Producer (unless otherwise permitted under the terms of the Cottage Industry Program);

(g) not to market fluid milk, unless the Dairy Plant is situated within a Remote Region and the Person is engaged exclusively in the production and processing of breed-specific certified organic milk, and provided further that:

(i) any such fluid milk products that are processed from milk produced by that Producer’s own cows are processed from milk produced under Continuous Daily Quota that was purchased by that Producer through the Quota Exchange, or acquired by that Producer by way of a general allotment of Continuous Daily Quota made by the Board; and

(ii) milk produced by that Producer’s own cows for the processing of fluid milk products does not exceed 27.4 kilograms of Continuous Daily Quota;

(h) to permanently install and maintain as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;

(i) in the alternative to (h), at that Person’s expense, to commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and, upon request of an authorized representative of the Board, to immediately make available any and all tests and monitoring results to the Board;

(j) not to sell, ship for sale or offer for sale any milk produced on the farm without the written approval of the Board;

(k) to pay promptly any and all amounts charged to that Person by the Board for over quota production;

(l) to cease production in the event of non-compliance with orders of the Board from time to time in force;

(m) to provide such securities or assurances as the Board may require from time to time; and

(n) not to apply for participation in the program on a dairy farm with respect to which Continuous Daily Quota had previously been allotted to another Producer under the Cottage Industry Program.

Continuous Daily Quota

2. (1) Subject to section 3, where an applicant has provided a written undertaking acceptable to the Board and is not in breach of it, and where the Board has issued a Class “D” Producer Vendor Licence to such Person, the Board will allot Continuous Daily Quota to that Person in an amount not less than 4.1 kilograms, together with such additional amount as is demonstrably necessary only for the processing of specified consumer-ready manufactured milk products approved by the Board based on that Person’s business plan for the first year of operation, and provided that the aggregate of all amounts of Continuous Daily Quota allotted to that Person under the program does not exceed 27.4 kilograms. During the first 15 years from the date of initial allotment, the Board may allot additional amounts of Continuous Daily Quota to that Person only for the processing of specified consumer-ready manufactured milk products approved by the Board provided that such additional amounts are not more than is demonstrably necessary based on that Person’s business plan for that year of operation, and provided that the aggregate of all amounts of Continuous Daily Quota allotted to that Person under the program does not exceed 27.4 kilograms.

(2) Subject to section 3, all Continuous Daily Quota allotted under the program shall Transferable only as a Going Concern Sale during the first 15 years from the date of initial allotment.

Additional Continuous Daily Quota

3. (1) Where a Cottage Industry Program Participant requires more than 27.4 kilograms of Continuous Daily Quota to meet demand for the specified manufactured milk products approved by the Board hereunder, that Participant may purchase additional Continuous Daily Quota through the Quota Exchange.

(2) A Cottage Industry Program Participant who seeks to purchase additional Continuous Daily Quota through the Quota Exchange in accordance with subsection (1) may apply for a one-time priority access of up to 13.7 kilograms.

(3) Any Continuous Daily Quota purchased in accordance with this section may be used only for the production of milk for processing into the specified manufactured milk products approved by the Board hereunder.

Access to Third Party Milk

4. (1) A Cottage Industry Program Participant who operates a Dairy Plant on a dairy farm which is situated other than within a Remote Region will be eligible to receive milk from another Vendor or Producer (through the Board).

(2) Where a Cottage Industry Program Participant elects to receive milk from another Vendor or Producer (through the Board) pursuant to subsection (1):

(a) no further Continuous Daily Quota will be allotted by the Board to that Participant under the Cottage Industry Program; and

(b) all Continuous Daily Quota allotted by the Board to that Participant under the Cottage Industry Program shall be Transferrable, subject to the surrender provisions of the Consolidated Order; and

(c) that Participant shall be governed by Parts VIII to X of the Consolidated Order as a Pool Participant Vendor and a Pool Participant Producer.

Conditions and Prohibitions

5. A Cottage Industry Program participant shall:

(a) not own or control more than one dairy farm, whether directly, or in conjunction with a Related Producer;

(b) operate a Dairy Plant on a dairy farm owned by that Person;

(c) process at that Dairy Plant only milk produced by that Person's own cows (unless otherwise permitted under the terms of the Cottage Industry Program);

(d) process such milk at that Dairy Plant only into specified manufactured milk products approved by the Board, or if the Dairy Plant is situated within a Remote Region and the Person is engaged exclusively in the production and processing of breed-specific certified organic milk, to process such milk at that Dairy Plant only into specified manufactured milk products and/or fluid milk products approved by the Board, provided that:

(i) any such fluid milk products that are processed from milk produced by that Producer's own cows are processed from milk produced under Continuous Daily Quota that was purchased by that Producer through the Quota Exchange, or acquired by that Producer by way of a general allotment of Continuous Daily Quota made by the Board; and

(ii) milk produced by that Producer's cows for the processing of fluid milk products does not exceed 27.4 kilograms of Continuous Daily Quota;

(e) market such specified milk products only in a consumer-ready form at the time of sale;

(f) not receive milk from another Vendor or Producer (unless otherwise permitted under the terms of the Cottage Industry Program);

(g) not market fluid milk, unless the Dairy Plant is situated within a Remote Region and the Person is engaged exclusively in the production and processing of breed-specific certified organic milk, and provided further that:

(i) any such fluid milk products that are processed from milk produced by that Producer's own cows are processed from milk produced under Continuous Daily Quota that was purchased by that Producer through the Quota Exchange, or acquired by that Producer by way of a general allotment of Continuous Daily Quota made by the Board; and

(ii) milk produced by that Producer's own cows for the processing of fluid milk products does not exceed 27.4 kilograms of Continuous Daily Quota;

(h) permanently install and maintain as an integral part of the milking system, milk volume metering equipment acceptable to and approved by the Board that provides accurate measurement, at the time of milking, of individual cow production;

(i) in the alternative to (h), at that Person's expense, commence and maintain participation in the Supervised Dairy Herd Improvement Services testing and monitoring program and, upon request of an authorized representative of the Board, immediately make available any and all tests and monitoring results to the Board;

(j) not sell, ship for sale or offer for sale any milk produced on the farm without the written approval of the Board;

(k) pay promptly any and all amounts charged to that Person by the Board for over quota production;

(l) cease production in the event of non-compliance with orders of the Board from time to time in force; and

(m) provide such securities or assurances as the Board may require from time to time.

Determination of Value of Over Quota Production

6. (1) All Cottage Industry Program participants shall report to the Board each month, in the prescribed form, details of the following:

(a) the quantity of milk produced (expressed in litres) and the quantity of butterfat in such milk (expressed in kilograms) based upon component test results certified by an accredited laboratory;

(b) the number of days that milk was produced; and

(c) the quantity of milk (expressed in litres) and the quantity of butterfat (expressed in kilograms) used in Classes 2, 3 and 4;

(2) The Board will calculate the kilograms of protein and the kilograms of other solids relative to the litres of milk and kilograms of butterfat reported by a Class "D" Cottage Industry Producer Vendor, in accordance with the Protein and Other Solids Formula set out in Schedule 5.

(3) The Board will calculate the gross dollar amount of over quota production using the information provided under paragraph 6(1)(c), adjusted as necessary to correct for reporting errors disclosed by audit verification of the Cottage Industry Program participant's reports, and the results of the calculation described in subsection (2), as follows:

(a) the butterfat amount (determined by multiplying the kilograms of butterfat in each class by the applicable butterfat value published in Schedule 4 herein);

(b) the protein amount (determined by multiplying the kilograms of protein in each class by the applicable protein value published in Schedule 4 herein);

(c) the other solids amount (determined by multiplying the kilograms of other solids in each class by the applicable other solids value published in Schedule 4 herein);

(4) Each month, the Board will charge to each Cottage Industry Program participant the gross dollar amount of over quota production calculated in accordance with subsection (3) together with the applicable charge for over quota production. The gross dollar amount of such over quota production is due on the 10th Business Day after the end of that month.

APPENDIX L
C.O. September 1, 2013
Schedule 3 Quota Exchange

SCHEDULE 3 - QUOTA EXCHANGE RULES

General

1. (1) These rules are to be read with the Consolidated Order.

(2) The Board reserves the right to limit a Person's participation in the Quota Exchange.

(3) The Board has no liability or obligation to a Person in the event an exchange is cancelled.

(4) All Quota exchanges will be held once monthly provided that at least one offer to sell has been duly submitted.

(5) The Board will run separate exchanges for Continuous Daily Quota used for the purpose of engaging in Conventional Production and Continuous Daily Quota used for the purpose of engaging in Organic Production.

Eligibility to Sell or to Buy

2. A Person intending to submit an offer to sell Continuous Daily Quota must first obtain a letter from the Board confirming the amount of Continuous Daily Quota that is available for Transfer. The confirmation letter must be requested well in advance of the deadline for submitting an offer to sell. Any such Person who has not obtained a confirmation letter is ineligible to participate in an exchange.

How to Use the Quota Exchange

3. (1) Persons intending to participate in a Quota Exchange must provide the Board with a completed offer to sell or to buy ("Quota Exchange Transfer Application Form") which is available from the Board.

(2) Every Quota Exchange Transfer Application Form must be signed by the intended seller(s) or buyer(s), or in the case of a partnership or corporation, by all partners or by the corporation's authorized signatories, as the case may be.

(3) Every Quota Exchange Transfer Application Form must be:

(a) delivered to the Board by mail, courier or personal delivery, in a sealed envelope that is clearly marked:

(i) "Quota Exchange Application", where the application concerns Continuous Daily Quota used for the purpose of engaging in Conventional Production; or

(ii) "Specialty Quota Exchange Application", where the application concerns Continuous Daily Quota used for the purpose of engaging in Organic Production; or

(b) sent by facsimile or email to the agent designated by the Board to administer the Quota Exchange in a manner that clearly indicates whether the application concerns Continuous Daily Quota used for the purpose of engaging in Conventional Production or Continuous Daily Quota used for the purpose of engaging in Organic Production.

(4) An offer to sell or to buy cannot be withdrawn after 1:00 p.m. on the deadline date of the month in which the Quota Exchange is to occur, unless the Board has in writing allowed the withdrawal of such an offer to sell or to buy for a reason which the Board considers appropriate in the circumstances.

(5) Applications that are not received by the Board prior to 1:00 p.m. on the deadline date of the month in which the exchange is to occur will be rejected by the Board, and must be resubmitted in order to be considered for a subsequent Quota Exchange.

(6) The Board will notify any Person who is eliminated from the Quota Exchange as a result of a late application of that fact.

Only One Offer to Sell or Offer to Buy

4. (1) Subject to subsection (2), a Person may submit only one offer to sell or offer to buy on each Quota Exchange.

(2) A Producer that has submitted an offer to sell is ineligible to submit an offer to buy until the expiry of six months from the date of the Quota Exchange in which the offer to sell had been submitted.

Minimum and Maximum Amount of Continuous Daily Quota for Offer to Sell

5. (1) Except when a Producer is leaving the regulated dairy industry and has ceased production, the minimum amount of Continuous Daily Quota which may be contained in an offer to sell is 0.1 kilograms.

(2) The total amount of Continuous Daily Quota offered for sale must not exceed the amount of Continuous Daily Quota that the Person has available for Transfer.

Minimum and Maximum Amount of Continuous Daily Quota for Offer to Buy

6. (1) The minimum amount of Continuous Daily Quota which may be contained in an offer to buy is 0.1 kilograms.

(2) Subject to subsection (3), the maximum amount of Continuous Daily Quota which may be contained in an offer to buy is 30 kilograms.

(3) A Person must have a farm that is approved Ministry of Agriculture – Livestock Health Management and Regulation to produce as much Continuous Daily Quota as would be allotted to that Person if the offer to buy is entirely successful.

Deposits and Security

7. (1) Where the full value of an offer to buy is equal to or greater than $100,000.00, the offer to buy must be accompanied with a letter from a responsible financial institution which indicates that the Person who submitted the offer to buy has made the necessary financial arrangements to purchase the full value of the Continuous Daily Quota set out in the offer to buy when payment therefor is due.

(2) Where the full value of an offer to buy is less than $100,000.00, the offer to buy must be accompanied with either:

(a) a cheque drawn on a bank account of the Person who submitted the offer to buy, dated the same day as the application, and made payable to the British Columbia Milk Marketing Board, or a direct deposit to the British Columbia Milk Marketing Board, in an aggregate amount equal to or in excess of ten percent (10%) of the full value of the offer to buy; or

(b) a letter from a responsible financial institution which indicates that the Person who submitted the offer to buy has made the necessary financial arrangements to purchase the full value of the Continuous Daily Quota set out in the offer to buy when payment therefor is due.

(3) If a cheque provided by a Person to the Board hereunder becomes non-negotiable by reason of insufficient funds, stop-payment or otherwise, or if the letter from a responsible financial institution submitted by a Person is withdrawn or in any way qualified before payment is due:

(a) every offer to buy made by such a Person shall be deemed to have been withdrawn; and

(b) the Board may recover from any such Person the whole of their deposit as liquidated damages.

(4) The Board shall advise any Person so eliminated from the Quota Exchange as a result of a non-negotiable cheque of that fact.

(5) Any monies received by the Board hereunder will be placed in a bank account designated for that purpose, and shall constitute a deposit towards the purchase price of Continuous Daily Quota. Such monies shall be non-refundable except where the offer to buy is withdrawn as permitted by these rules, or the offer to buy is unsuccessful and the Board has not made a claim against such funds as permitted herein.

(6) Any interest earned on monies received by the Board hereunder will be disbursed in accordance with motions passed at a general meeting of licensed Producers provided that the motions are not inconsistent with the Consolidated Order, including these Rules.

Special Considerations for Producers Leaving the Industry

8. (1) A Producer intending to leave the regulated dairy industry must inform the Board of the date that Continuous Daily Quota production will cease.

(2) After the month in which final production is reported to the Board by the Vendor receiving the Producer's milk, the Producer may offer for sale any remaining Continuous Daily Quota on the next two consecutive Quota Exchanges.

(3) Any Continuous Daily Quota remaining unsold after the second Quota Exchange referred to in the preceding paragraph will be cancelled and will revert to the Board.

Quota Exchange Date

9. (1) Subject to subsection (2), Quota Exchanges will be held by the Board on the 7th day of each month, or if the 7th day is not a Business Day, the next Business Day following the 7th day.

(2) If the volume of Continuous Daily Quota subject to offers to sell exceeds the volume of Continuous Daily Quota subject to offers to buy, the Quota Exchange will be cancelled and re-run within two weeks using a market clearing price that has been adjusted in accordance with these Rules.

Calculation of the Market Clearing Price – Conventional Production

10. (1) If for each of three sequential “Conventional Production” Quota Exchanges:

(a) the volume of Continuous Daily Quota subject to offers to sell was greater than 100 kilograms;

(b) the volume of Continuous Daily Quota subject to offers to buy has exceeded the volume of Continuous Daily Quota subject to offers to sell;

(c) the offers to buy have been filled to 50% or less; and

(d) at least one successfully filled offer to buy was from a Person who had not been granted priority status in accordance with these Rules;

the market clearing price shall be increased by $500.00 per kilogram for the next exchange.

(2) If the volume of Continuous Daily Quota subject to offers to sell exceeds the volume of Continuous Daily Quota subject to offers to buy in a “Conventional Production” Quota Exchange, the market clearing price shall be reduced by $500.00 per kilogram for the next “Conventional Production” Quota Exchange.

Calculation of the Market Clearing Price – Organic Production

11. (1) For the first “Organic Production” Quota Exchange run after September 1, 2013, and for every “Organic Production” Quota Exchange that follows a successful “Organic Production” Quota Exchange in which Quota had Transferred, the market clearing price shall be equal to the market clearing price for that month’s “Conventional Production” Quota Exchange.

(2) If the volume of Continuous Daily Quota subject to offers to sell exceeds the volume of Continuous Daily Quota subject to offers to buy in a “Organic Production” Quota Exchange, the market clearing price shall be reduced:

(a) after the first cancelled “Organic Production” Quota Exchange, by $500.00 per kilogram, for the next “Organic Production” Quota Exchange;

(b) after the second consecutive cancelled “Organic Production” Quota Exchange, by $1,000.00 per kilogram, for the next “Organic Production” Quota Exchange;

(c) after the third consecutive cancelled “Organic Production” Quota Exchange, by $2,000.00 per kilogram, for the next “Organic Production” Quota Exchange;

(d) after the fourth and any subsequent consecutive cancelled “Organic Production” Quota Exchange, by $4,000.00 per kilogram, for the next “Organic Production” Quota Exchange.

Transfer of Continuous Daily Quota

12. (1) Continuous Daily Quota Transfers concerning Continuous Daily Quota used for the purpose of engaging in Conventional Production will be effective on the 1st day of the month following the holding of each Quota Exchange.

(2) Continuous Daily Quota Transfers concerning Continuous Daily Quota used for the purpose of engaging in Organic Production will be effective on the 1st day of the third month following the holding of each Quota Exchange.

(2) Subject to section 12, if there is insufficient Continuous Daily Quota subject to offers to sell in any monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange, then the available Continuous Daily Quota will be Transferred to each buyer on a percentage basis - i.e. if there is enough Continuous Daily Quota offered for sale to fill 95% of the offers to buy, then each offer to buy will be 95% filled.

Priority Status

13. (1) Notwithstanding subsection 11(2) a qualified new entrant to the dairy industry may apply to the Board for priority status on the Quota Exchange. Where such priority status has been granted, offers to buy Continuous Daily Quota submitted by that qualified new entrant will be 100% filled, up to an aggregate maximum of 13.7 kilograms, even where there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange.

(2) Notwithstanding subsection 11(2) a qualified entrant in the Graduated Entry Program may apply to the Board for priority status on the Quota Exchange. Where such priority status has been granted, offers to buy Continuous Daily Quota submitted by that qualified entrant in the Graduated Entry Program will be 100% filled, up to an aggregate maximum of 5.5 kilograms, even where there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange.

(3) To qualify for priority status under subsections (1) or (2), the applicant must have the following qualifications:

(a) a genuine intention to be actively engaged in milk production;

(b) be a Canadian citizen or permanent resident of Canada;

(c) be a permanent resident in the Province of British Columbia;

(d) be at least 19 years of age at the time of application; and

(e) neither the applicant nor the Spouse of the applicant may have, or have had at any time, any financial interest in Continuous Daily Quota, or any other licence, permit or quota issued, allotted or granted by any other supply management commodity board or commission in Canada, whether directly or indirectly, or through any organization or entity.

(4) An applicant for priority status may be a partnership in which case each partner must qualify under subsection (3).

(5) A Person who has been granted priority status under this section is ineligible to purchase Continuous Daily Quota in any transaction that would constitute a Transfer to or from an Exempt Person or sibling for a period of 5 years from the date that priority status was granted by the Board.

Notification and Payment

14. (1) Once the outcome of a Quota Exchange is known, all participating Persons will be notified of the results. Persons who bought or sold Continuous Daily Quota will be provided payment statements. Persons who successfully bought Continuous Daily Quota shall then be required to deliver to the Board, on or before 1:00 p.m. of the 23rd day of the month before Transfer is to take place (or on the first Business Day prior to the 23rd day of that month if the 23rd day is not a Business Day), their cheque(s) for the amount equal to the balance of the purchase price.

(2) Any monies paid to the Board by cheque from a Person not successful in buying Continuous Daily Quota shall be returned to that Person.

(3) If a Person successful in buying Continuous Daily Quota fails to deliver the cheque(s) to the Board before the expiry of the deadline set out herein, or if any cheque(s) delivered to the Board cannot be negotiated by the Board by the 2nd to last Business Day of the month in which the Transfer is to occur, then no Continuous Daily Quota shall be Transferred to such Person. The amount of Continuous Daily Quota sold by the successful sellers will

be reduced proportionately by the amount of Continuous Daily Quota not Transferred to such Person. At the sole option of the Board, the deposit paid by such Person will either be forfeited to the Board or returned to such Person. The Board shall advise any Person not receiving Continuous Daily Quota by reason of that Person's non-negotiable cheque that no Continuous Daily Quota is being Transferred to such Person.

(4) Any Person providing the Board with a cheque(s) which cannot be negotiated by the Board shall be liable to the Board for:

(a) all costs incurred by the Board as a result of such non-negotiable cheque(s), including but not limited to all banking charges and legal costs; and

(b) liquidated damages equal to the amount of the cheque(s) provided, and if such cheque(s) cannot be negotiated by the Board, the Board may pursue all remedies available to it at law, including set-off, to recover from such Person such liquidated damages and costs;

(5) Subject to subsection (6), payment to a successful seller will be made by cheque post dated to the last Business Day of the month in which the Transfer occurred, and sent by registered mail to the address shown on the Quota Exchange Transfer Application Form. Should the amount of Continuous Daily Quota sold by successful sellers be reduced by reason of the circumstances described in subsection (3), then it may be necessary for the Board to place stop-payment on any cheques already issued to successful sellers and to issue new cheques to successful sellers.

(6) If the Board has notice of an assignment of Continuous Daily Quota to a financial institution or other Person, the sale proceeds of an approved Transfer will be paid jointly to the financial institution or other Person and to the selling Person, unless instructed otherwise by both the financial institution or other Person and the selling Person.

APPENDIX M
Specialty

British Columbia
Farm Industry Review Board

Specialty Market and New Entrant Submissions

Policy, Analysis, Principles and Directions

September 1, 2005

British Columbia

BCMMB Submission	FIRB Assessment
CIP The CIP is a Board program introduced to assist start-up producer-processors who wish to produce milk and process it into a manufactured milk product, excluding fluid milk, on the farm. The Board issues up to 10,000 kg of temporary quota, and then retracts 20% per year for five years. To maintain and grow production, participants are expected to acquire TTPQ. The Board has set aside 30,000 kg of quota to fund the CIP.	DDPIP-organic conversion, not a CIP conversion.
2.15. Permit Conversion	
Organic Milk Incentives for DDPIP participants - The Board intends to provide DDPIP producers of organic milk up to 10,000 kg of NTPQ-S. For these producers, all production above the 10,000 kg level will be retracted over five years beginning upon termination of the existing DDPIP contract. Encouraging More Organic Milk from TTPQ holders already producing organic milk - The Board intends to provide an incentive to holders of TTPQ that are currently recognized to be producing certified organic milk using TTPQ. The incentive will be 5,000 kg NTPQ-S, plus up to an additional 2,000 kg of NTPQ-S matching the purchase of 2,000 kg of TTPQ (called the 5/2/2 program herein). Encouraging conversion by existing mainstream milk producers to organic milk production - The Board believes it is essential to increase the number of organic milk producers so that supply to processors is less vulnerable to a small number of producers. The Board intends to offer incentives, including offering the 5/2/2 program plus funding the organic milk price premiums as payments to the producer during the transition time to becoming certified organic. Pooling of Organic Milk Premiums - The Board will also establish a pool for organic milk premiums and expenses (i.e. transportation) with the proceeds and costs shared among the pool participants.	The Board's intent to expand organic milk production to meet market demand and to decrease risk by having organic milk production spread over a greater number of producers than at present is sound risk management. However, this does not mean that existing organic milk producers should be cut-back so other existing milk producers can be incented. The Board will receive TPQ from the CDC equal to the production of qualifying milk (organic) in the fifth year of each five-year DDPIP contract. The provision of 10,000 kg of quota to each DDPIP contractors will be less than the amount of quota received by the Board from the CDC. The Board appears to intend that the remaining quota will be distributed pro rata among all other quota holders after providing for incentives to existing organic milk producers and existing mainstream milk producers who are authorized by the Board to switch to organic milk production. It seems reasonable that quota earned from organic milk programs should remain available for organic milk programs. The Board needs to revisit its organic milk DDPIP conversion plans. It needs to consider the amounts in production under each contract in the 12 months ending Dec. 31, 2004, the issuance of organic milk quota to these producers, and the terms and conditions by which growth in volume after January 1, 2005 is used by the producer and subsequently returned to the

BCMMB Submission	FIRB Assessment
	Board. The Board should consider issuing organic quota equal to the production in the 12 months ending December 2004, allowing the producer to produce the additional amounts by which the DDPIP contract grows after December 2004 until the contract terminates. At contract termination, it seems reasonable that the amount in excess of the amount granted as organic quota at January 1, 2005 would be retracted over a reasonable period of time. The reasoning behind the proposed 5/2/2 quota issuance to existing organic milk producers using TPQ is unclear. It may be based on a principle of fairness and equity, or it may simply be a way to increase organic milk production rapidly to meet demand and maximize quota earned under the DDPIP program since these farms are already certified. The 2/2 matching proposal is inconsistent in this case since the Board appears to intend to allow holders of transferable quota to apply existing quota already owned by the farm to receive the matching amount. In other words, no quota purchase is required in this instance. Any quota issued under this existing organic producer growth incentive should be organic milk quota. The Board's offer of 5/2/2 for existing mainstream milk producers is also intended to increase organic milk production by providing additional organic quota (7,000 kg) together with the volumes from conversion from mainstream to organic milk production for the balance of the recipient's production. Like TPQ organic producers, mainstream converters will be able to assign 2,000 kg of existing quota to receive the additional 2,000 kg incentive. In either case where the 5/2/2 incentive is being offered to existing quota holders to stimulate a quick increase in organic milk production, the Board should apply restrictions to the sale of quota by recipients. It seems reasonable that such recipients should be required to transfer all of the 5/2/2 incentive quota received before any other quota held by the producer would be authorized for transfer. This is to avoid situations where the producer receives the

BCMMB Submission	FIRB Assessment
	5/2/2 incentive and then sells an equivalent amount of other quota held thereby realizing an immediate gain and limiting the expected amount of organic milk production. The Board needs to be careful in the product switching implications of this proposal. If a mainstream producer is offered this opportunity and converts they should not be permitted to switch back to mainstream production with their mainstream quota for a significant period of time. If they do switch back, they should be required to dispose of their organic quota. The Board is proposing to pay a substantial portion of the organic milk premium during transition from mainstream to organic milk production for mainstream producers authorized to convert. The intent appears to be to further encourage conversion. There is apparently a precedent for this as the Board provided premium assistance to some organic milk producers in the late '90s. However, organic milk is now an established product class and it seems unnecessary that premium assistance be provided to either mainstream converters or organic milk new entrants. Additionally, the Board has not addressed how it will determine which mainstream producers will be offered the conversion opportunities if there are more applicants than need. This is a potential point of contention and dispute. The Board needs to rework its DDPIP conversion plan and its proposed programs to stimulate additional organic milk production among existing mainstream and organic producers.
2.16. Pricing	
The Board is the first receiver of all milk shipped in the province, and it pools revenues and expenses. Milk pricing is regulated and prices are established by the CDC. The Board has not to date established an organic milk pool. Organic milk producers	The Board has not demonstrated that pooling of organic premiums is required or has the support of organic milk producers. Therefore, pooling should not be pursued until organic milk producers and processors seek pooling. FIRB is not aware of any representations

BCMMB Submission	FIRB Assessment
appears satisfied that existing decision making and administrative procedures are adequate.	producers that the Board does not listen to or care for dissenting opinions. The Board needs to do some work to improve its relationship with organic milk producers. It is unlikely all demands of organic milk producers, or mainstream producers for that matter, can be met within the terms and conditions of the various regulations and allocation agreements. However, the Board needs to continue to work to understand and communicate with organic milk producers.

3 Response Summary

FIRB is giving policy direction to the BCMMB that its specialty and new entrant submission is acceptable subject to the following changes and/or clarifications being reflected in the Board's draft Orders which are to be prepared and submitted to FIRB on or before October 31, 2005:

1. Organic milk should be a designated specialty class of milk.
2. Approved certification agencies for organic milk should be in accordance with reasonable provincial or national standards.
3. Organic milk quota should be established as a specialty class of quota.
4. All quota should be transferable within its class.
5. For all specialty and new entrant quota issued on or after the implementation of the specialty and new entrant programs, the Board should institute the declining transfer assessment schedule.
6. The 5% direct transfer assessment program should be continued as proposed for all TPQ issued prior to establishment of the declining transfer assessment schedule subject to limitations on the exceptions from transfer assessment.
7. Family related exceptions to transfer assessments should be limited to direct family members, defined as spouse, sons, and daughters; and for business reorganization where the ownership percentages do not change.
8. The Cottage Industry Program should be amended to meet the requirements of a small herd program to manage on-farm, value-added manufactured milk production or heritage breed needs.
9. The Board should develop allocation procedures to ensure the TPQ received from CDC is distributed among the mainstream and organic quota accounts based on differential growth in each market segment.
10. The Board should allocate the quota earned from the CDC pursuant to organic milk DDPIP initiatives to the organic quota account.

11. The Board should develop clear guidelines for authorizing the switching of production between quota classes, and should apply the principle of reciprocity between the different classes of quota.

12. DDPIP organic milk producers should receive organic specialty quota equal to their 12 month production ending December 31, 2004.

13. Quota amounts above the December 31, 2004 amount that are produced and earned through the DDPIP program between January 1, 2005 and the end of each DDPIP contract should be produced, if possible, by the existing contractors up to the end of the DDPIP contract. At the conclusion of each contract, the amounts above that issued as quota based on production up to December 2004 should be retracted over a reasonable period of time.

14. The proposal to issue up to 7,000 kg of organic quota to existing organic milk producers using mainstream quota for organic milk production is acceptable on a one-time basis to assist increased organic milk production quickly to meet current demand projections.

15. The Board should only provide incentives to get mainstream quota holders to convert to organic milk production if organic milk demand cannot be met by the other programs, including the GEP. The incentives offered to mainstream producers to convert to organic milk production should be limited to the 5/2/2 organic quota incentive and should not include payment of the organic milk price premium during transition.

16. The Board should not proceed with organic milk premium pooling until it can be shown that the organic milk producers are in favour of changing from direct processor contracts to a pooling system.

17. Transport pooling should be considered only if organic milk producers are in favour of such pooling.

18. The Board's Graduated Entry Program (GEP) program should continue unchanged except that organic milk entrants should be given priority when there is an unfilled organic milk demand, and incentive quota issued should be transferable. The Board should not subsidize the organic milk premium during transition.

19. The Board should consider having an independent third party administer the new entrant waiting list, subject to the recommendation of the Specialty Markets Advisory Committee.

20. A Specialty Markets Advisory Committee should be established and comprised of an equal number of organic milk producers and processors, a member of the Board, and an independent Chair appointed by the Board. Clear terms of reference for the Committee should be established.

21. The Board should take steps to build trust with specialty producers.

BRITISH COLUMBIA

July 19, 2006

File: 44200-60/SPEC REV
44200-60/ORDERS

DELIVERED BY EMAIL, FAX OR MAIL

Blaine Gorrell
Chair
British Columbia Milk Marketing Board
200 – 32160 South Fraser Way
Abbotsford, BC V2T 1W5

Dear Mr. Gorrell:

REVIEW OF SPECIALTY PRODUCTION AND NEW ENTRANT PROGRAMS – IMPROVING ACCESS TO THE SUPPLY MANAGEMENT SYSTEM

On September 1 and 2, 2005, the British Columbia Farm Industry Review Board (FIRB) issued general directions to the five supply managed commodity Boards in British Columbia. These directions followed a two year review by FIRB and the Ministry of Agriculture and Lands (the Ministry) concerning how specialty production, new entrant and quota programs were to be administered by the five Boards.

The Boards were required to draft Orders in compliance with the general directions and submit their Orders to FIRB by October 31, 2005 for review and prior approval before implementation. Interested persons were also provided opportunity to provide written submissions with respect to the draft Orders.

The British Columbia Milk Marketing Board (Milk Board) requested and was granted an extension to January 31, 2006 for filing its draft Orders. FIRB's initial review of the Milk Board's proposals resulted in FIRB writing to the Milk Board seeking clarification with respect to certain provisions. The Milk Board provided its response on April 13, 2006. These responses were provided to the industry for comment.

At its meetings of May 11 and July 12, 2006, FIRB gave further consideration to the provisions of the Milk Board's draft April 1, 2006 Consolidated Orders relating to specialty, new entrants, small lot production and quota transfers taking into account the Board's March 6, 2006 letter, the Board's April 13, 2006 letter, various discussions and meetings with the Board and industry stakeholders, and written comments received from other interested parties up to May 10, 2006. FIRB subsequently determined that it would prior approve the Board's proposal, subject to the amendments outlined below, effective the date of this letter and based on the following understandings.

British Columbia
Farm Industry Review Board

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First and foremost, Milk Board allocation policies and decision-making are expected to be in accordance with the Ministry's "Regulated Marketing Economic Policy" and FIRB's September 1, 2005 directions. This includes being responsive to specialty, niche and other innovative marketing opportunities on an ongoing basis. FIRB is of the firm opinion that B.C. producers should have the first opportunity to fully serve B.C.'s markets, including specialty segments.

Second, FIRB is generally satisfied that the Orders, once amended in accordance with the direction provided below, are in alignment with the policy expectations outlined in the September 1, 2005 directions. There has been significant input and expertise that has informed the policy judgments that will be reflected in the amended Orders. Nevertheless, regulatory changes of this nature necessarily require regulators to monitor, on an ongoing basis, whether and to what extent the proposed changes are achieving their policy objectives. Accordingly, FIRB recognizes that certain aspects of the Orders as they relate to specialty markets and new entrant programs will be the subject of ongoing dialogue and review, and that adjustments and amendments may still need to be made based on practical experience gained in applying and managing the Orders.

FIRB requires the Milk Board to be proactive and timely in responding to issues that emerge from the implementation of its new Orders. In responding to these issues and the potentially differing points of view and interpretations of the Orders, the Milk Board must act progressively, fairly, transparently and equitably. FIRB expects the Milk Board's Specialty Milk Product Advisory Committee to have a key role in support of the Board and suggests that the Committee be engaged on issues as soon as possible.

Directions Regarding Orders Proposed by the Milk Board

The Milk Board is directed to amend its draft Consolidated Orders dated April 1, 2006 to incorporate the following requirements:

<u>Designation of Specialty Products</u>

1. FIRB agrees that currently only organic milk is qualified to be designated as specialty for quota management and administration purposes. FIRB also agrees that production changes restricted solely to "*feeding and husbandry programs do not* [necessarily] *confer specialty status on milk*." (Milk Board letter dated April 13, 2006).

2. The Milk Board, with input from the Specialty Milk Product Advisory Committee (SMPAC), is to establish criteria providing for the designation of other specialty milk in the future. These criteria are to be established by July 31, 2007.

<u>Innovation</u>

3. The Milk Board has been a leader among the supply managed sectors in fostering innovation through a national program known as the Domestic Dairy Product Innovation Program (DDPIP).

4. In accordance with FIRB's September 1, 2005 Directions, the Milk Board is to establish policy and procedure "*for the pursuit of new and innovative product/market segments in the future*" where such new innovations may not qualify to be designated as specialty products.

5. FIRB requires the Milk Board to have a provincial program to stimulate and promote innovative approaches to producing and marketing milk that have the potential to create sustainable demand

for milk produced in B.C. This program may build on the DDPIP; however, the DDPIP program may not be the sole vehicle for promoting innovation in milk production and marketing in the province. FIRB requires the Board to provide a report, together with any necessary Consolidated Order amendments, to FIRB concerning measures it is taking or plans to take to promote innovation by July 31, 2007.

Allocation

6. FIRB recognizes the Milk Board has proposed to provide for growth in supply of organic milk by providing Graduated Entry Program (GEP) priority to producers intending to produce organic milk and by authorizing holders of Total Production Quota (TPQ) to convert from mainstream milk production to organic milk production.

7. FIRB recognizes the Milk Board has proposed to allocate quota pro-rata among all quota classes – TPQ and Specialty TPQ (STPQ).

8. In accordance with FIRB's September 1, 2005 directions, the Milk Board is to "*establish principles and procedures for distributing the provincial allocation…to the different* [classes of quota] *based on differential market growth*." [emphasis added] Accordingly, the Board is to provide for a reasonable differential growth spread between TPQ and STPQ in making allocations to meet specialty market requirements. For clarity, allocation is to be pro-rata within TPQ and STPQ classes, but not necessarily between them.

Conversion from Mainstream to Specialty Production

9. FIRB accepts that mainstream producers holding TPQ should have the opportunity to produce for specialty market segments subject to certain conditions.

10. The Milk Board is to provide opportunities for holders of TPQ to utilize some or all of their TPQ for the production of specialty milk subject to there being unfilled market demand after new entrants have been selected on the basis of the specialty priority and after existing holders of STPQ have been allocated growth in accordance with differential allocation procedures as outlined in paragraph 8 above.

11. FIRB supports the Board's approach of having the SMPAC provide input on requests for holders of TPQ to utilize their quota to produce specialty milk.

12. FIRB approves that holders of TPQ authorized to produce specialty milk will retain their rights to produce mainstream milk and transfer their quota as TPQ, subject to any time conditions applied by the Milk Board to their specialty production authorization.

13. The Milk Board is to establish, in consultation with the SMPAC, clearly defined procedures by which TPQ holders may be approved to convert back to mainstream milk production. These procedures must not cause short term supply shortages in the specialty milk segment.

Pooling of Specialty Production

14. FIRB accepts that pooling is fundamental to the current management and administration of the milk supply management system in B.C. and Canada.

15. FIRB accepts the Milk Board's proposal that organic milk should be pooled. The Milk Board may proceed with pooling as proposed, including pooling of premiums and requiring 95% premium guarantee from processors, and subject to meeting any requirements of producers, processors and the Board necessary to retain the integrity of the organic milk.

16. Nevertheless, FIRB is of the view that pooling of future innovative production or new types of specialty production should not occur until such time as the Milk Board determines it is warranted by sustainable market demand.

Quota Transfer

17. FIRB recognizes that the Milk Board has operated a Quota Exchange to provide transparent and equitable opportunity for all producers to offer quota for transfer and to seek to acquire quota by transfer. This approach has had benefits for all producers, particularly those in regions outside the Fraser Valley.

18. The Milk Board is to require all quota to be transferred through the Quota Exchange except transfers for which assessment exemptions are provided at paragraph 24. In addition, the Milk Board may choose to except a whole-farm transfer (milk production unit and quota) from the exchange when the farm and quota stay intact. In this situation, the transfer assessment provisions still apply except as provided in paragraph 24.

Quota Transfer Assessment

19. The Milk Board is to impose a five percent (5%) transfer assessment on all transfers of quota that was issued prior to September 1, 2005, except as specifically exempted (see paragraph 24).

20. All new quota, including both TPQ and STPQ, allocated to B.C. producers is to be subject to the 10/10/10 declining transfer assessment.

21. All quota transferred is to be subject to the "last in, first out" rule whereby a producer must transfer the most recently issued quota first.

22. All quota realized by the Board from assessments is to be made available for the New Entrant Program, the Cottage Industry Program, and new product/market innovations. For clarity, quota realized from assessment is not to be redistributed among existing quota holders until adequate quota has been provided to all other programs and then only in accordance with the allocation criteria, including supplying B.C.'s specialty markets with B.C. production and providing for differential growth between TPQ and STPQ. The criteria by which these allocations are determined must be prior approved by FIRB in accordance with the September 1, 2005 directions.

23. FIRB requires the Milk Board to provide an annual report detailing all transfers made in the year, the assessments made and the exemptions granted, and the actual and/or planned distribution of quota realized from assessment. This report is to be provided when the Milk Board submits its Annual Report to FIRB or pursuant to reporting requirements that may be required of the Chair pursuant to the Memorandum or Understanding between the Minister, the FIRB Chair, and the Chair of the Milk Board.

Quota Transfer Assessment Exemptions

24. Exemptions from quota transfer assessment are to be limited to family members, defined as spouses, sons and daughters, for business reorganizations where the ownership percentages do not change, and quota swaps where each party to the swap begins and ends with the same amount of quota and the swap is solely for the purpose of balancing annual production within quota.

25. The Milk Board may not provide any other exemptions from transfer assessment.

Cottage Industry Program

26. The Milk Board is to provide for the establishment of a minimum of one new CIP producer annually.

27. The Milk Board is to give first priority to CIP applicants planning to produce and process designated specialty milk or produce new, innovative processed products, second priority to applicants planning to produce outside the Fraser Valley, and third priority to applicants planning to produce inside the Fraser Valley.

28. In the event that there is more than one eligible applicant in a year and the Milk Board has insufficient quota realized from assessments to fund more than one new CIP producer, the Board is to establish waiting list procedures based on principles similar to those provided for the New Entrant Program.

29. Successful CIP applicants are to be provided up to 10,000 kg of TPQ or STPQ, depending upon the type of milk planned to be produced. This quota allocation is to be subject to the 10/10/10 transfer assessment rule and is to be transferable off the site after 15 years of use by the applicant. For clarity, quota issued under the CIP program may be transferred with the business, including the fixed assets, during the first 15 years after issuance and would be subject to the 10/10/10 quota assessment during this time. After 15 years, the quota may be transferred independently of the fixed assets, and would be subject to a 10% assessment at that time in accordance with the 10/10/10 quota assessment schedule.

30. The Milk Board is to consider a plan for authorizing CIP producers to purchase milk either from the Board through the pool or by direct local contract for the purpose of growing their processed milk products business. FIRB requires the Board's proposal in this regard not later than October 31, 2006.

Permit Conversion.

31. In accordance with FIRB's September 1, 2005 Directions, existing specialty, DDPIP, CIP or other permits "*are to be converted to quota of a class applicable to the type of product produced,* … [and] … *production volumes recognized for quota should be equal to the permittee's production in the twelve (12) months ending December 2004, or the nearest applicable quota period ending after December 2004.*"

32. FIRB requires the Milk Board to submit a detailed report outlining the permit conversion criteria applied together with the details proposed for each producer utilizing the DDPIP and/or CIP programs. This report is to be provided to FIRB no later than October 31, 2006.

33. FIRB will review the proposed conversion details and either approve them as submitted or direct alternative approaches.

New Entrant Programs

34. The Milk Board has been a leader in providing new entrant opportunities for individuals wishing to enter the milk industry. FIRB acknowledges that the Milk Board's program has adapted over time to changing needs and experience.

35. FIRB recognizes and respects that the Milk Board has committed to provide a minimum of three (3) new entry invitations annually.

36. The Milk Board is to issue invitations based on providing priority to applicants planning to produce designated specialty products, subject to there being unfilled market demand, and to applicants planning to produce outside the Fraser Valley. The Milk Board should also require that there be a demonstrated milk transportation plan either to a regional processor or in conjunction with other regional producers shipping jointly outside the region.

37. FIRB recognizes and accepts the Milk Board's current plan of issuing 5,000 kg of quota plus 2,000 kg of quota to match the acquisition of 2,000 kg by the new entrant. Any quota issued under the New Entrant Program is to be fully transferable in accordance with the 10/10/10 transfer assessment restrictions.

Specialty Milk Products Advisory Committee

38. FIRB accepts the Milk Board's approach to the Advisory Committee, subject to the Board ensuring that, at all times, the majority of members on the Committee represent specialty and CIP producers and that the Board member on the Committee be non-voting.

39. FIRB requires that the Board consult with specialty and CIP producers to determine their preferred appointee(s) prior to making any final appointments.

40. FIRB encourages the Milk Board to consider appointing an independent Committee Chair only if the industry members appointed by the Board are unable to agree to nominate a Chair from among themselves.

41. FIRB encourages the Milk Board to establish the SMPAC as soon as possible, and requests that the Board communicate its membership to FIRB at its earliest convenience.

42. FIRB encourages the Milk Board to establish at the outset, or charge the SMPAC with establishing, clear Committee procedures concerning meetings, quorum, decision-making, voting, minutes, and reporting to the Board.

FIRB requires the Milk Board to make the necessary amendments to its Consolidated Orders dated April 1, 2006 based on the above noted directions and have these in effect no later than July 31, 2006 or some later date approved by FIRB at the Milk Board's request. FIRB also requires that the Milk Board submit a final copy of its Consolidated Orders clearly showing with a black-line version all changes from the currently in force Orders.

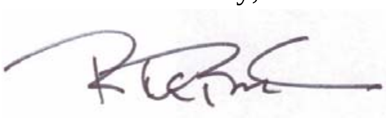
FIRB will continue to monitor developments as the new Orders are implemented. This monitoring will include continued dialogue between FIRB and the Milk Board respecting these Milk Board

Orders and concerning issues that may arise. FIRB reserves the right to issue further supervisory directions to the Milk Board to ensure that its directions in this letter are carried out.

There will be performance expectations relating to the specialty and new entrant programs flowing from Memoranda of Understanding between the Minister of Agriculture and Lands, the Chair of FIRB and the chairs of the five supply managed boards. FIRB will also conduct a formal review of all specialty and quota transfer programs in three years time (2009).

The Specialty Review has been a challenging task and FIRB appreciates the contributions Milk Board members and staff have made to the process.

Yours truly,



Richard Bullock
Chair

pc: Daphne Stancil, Assistant Deputy Minister
Strategy, Policy and Legislation
Ministry of Agriculture and Lands

Bruce Cook, Chair
British Columbia Broiler Hatching Egg Commission

Ron Kilmury, Chair
British Columbia Chicken Marketing Board

David Taylor, Chair
British Columbia Egg Marketing Board

Ron Charles, Chair
British Columbia Turkey Marketing Board

Specialty Review Distribution List
FIRB Website

BRITISH COLUMBIA MILK BOARD **WORKING DRAFT**

CONTINUOUS DAILY QUOTA GUIDE FOR SPECIALTY MILK PRODUCTION

NOVEMBER 1, 2012

BC milk
MARKETING BOARD

BRITISH COLUMBIA MILK BOARD
CONTINUOUS DAILY QUOTA GUIDE FOR SPECIALTY MILK PRODUCTION
NOVEMBER 1, 2012

This guide is designed to provide information about the Specialty Continuous Daily Quota (SCDQ) policies of the British Columbia Milk Marketing Board (BCMMB). For detailed information please refer to the *BCMMB Consolidated Order of August 1, 2010*. <u>If there is a discrepancy between this document and the Consolidated Order, the latter shall supersede this guide.</u>

Persons wishing clarification or more detailed information should contact the BCMMB at:

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www.milk.-bc.com info@milk-bc.com

Authority

The BCMMB exercises its federal and provincial powers under the following enactments:

- Natural Products Marketing (B.C.) Act, R.S.B.C. 1996, c. 330 (the "B.C. Act");
- British Columbia Milk Marketing Board Regulation, B.C. Reg. 167/94 (the "B.C. Regulation");
- British Columbia Milk Order, SOR/94 - 511 made under the Agricultural Products Marketing Act, R.S., c. A-7 (the "Federal Milk Order"); and
- Dairy Products Marketing Regulations, SOR/94 - 466 made under the Canadian Dairy Commission Act, R.S., c. C-7 (the "Federal Regulations").

**This document contains sections of the BCMMB Consolidated Order (August 2010) which do not pertain to the production of specialty (organic) milk. These sections have been identified in red and will be removed when the BCMMB Consolidated Order (August 2010) is amended.

1. Specialty Continuous Daily Quota Management

A. Specialty Continuous Daily Quota (SCDQ)

SCDQ consists of the following components (if applicable) which are required to be produced by all specialty producers on a daily basis:

Specialty Continuous Daily Quota +Allocations +Sleeve

B. Allocation

SCDQ will be allocated on a monthly basis, by multiplying daily quota by pick-up days:

SCDQ × Pick-up Days = Monthly Quota Allocation

Monthly quota allocation will be measured against actual butterfat production to determine a producer's credit position.

Actual Butterfat Production – Monthly Quota Allocation= Credits for the Month

C. Credits

Credits accumulated on a monthly basis will be combined to determine a producer's cumulative credit position which is carried forward indefinitely; ***there is no dairy year end.***

The cumulative credit position will be divided by the current month daily quota allocation to determine the credit day position.

Cumulative Credit Position ÷ Current Month Daily Quota= Credit Days

D. Quota Reconciliation

Quota is reconciled monthly. Each month is based strictly on pickups. Each day in the calendar year is numbered (1 – 365). Please refer to the following example for clarity;

If the last pickup in December was on day 153 (Dec 31st), and the last pickup in November was on Day 121 (Nov 29th), then 32 quota days would be allocated in December (153-121 = 32).

If the last pickup in December was cancelled, the month would be reduced accordingly. The Day 151 (Dec 29th) pickup minus the last pickup in November on Day 121 (Nov 29th) would reduce the month to 30 quota days. The 2 days 'lost' in December would be added to the quota days allocated in January.

Sun	Mon	Tue	Wed	Thu	Fri	Sat
28	29	30	**1**	**2**	**3**	**4**
120	121	122	123	124	125	126
5	**6**	**7**	**8**	**9**	**10**	**11**
127	128	129	130	131	132	133
12	**13**	**14**	**15**	**16**	**17**	**18**
134	135	136	137	138	139	140
19	**20**	**21**	**22**	**23**	**24**	**25**
141	142	143	144	145	146	147
26	**27**	**28**	**29**	**30**	**31**	1
148	149	150	151	152	153	154

2. Production Limits

A. August 1, 2010 Quota Production Limits

	Percent	*Days*
Upper limit	+1.37%	5
Lower Limit	-4.11%	15
Total Flexibility	5.48%	20

B. Producer Penalty - Over Quota Production

Effective August 1, 2011, any shipments above 101.37% (5 days) will receive no payment and will be subject to a 50% over-quota production penalty if province is at 100% production.

The 50% over-quota production penalty will apply if BC's previous monthly Continuous Quota position is at or above 100% (or 0.00% as per the BC continuous quota provincial position). If provincial production levels are below 100% (0.00%), no penalty will be assessed to individuals however there will be no payment for over quota milk shipped and applicable freight charges will apply.

The monthly Canadian Dairy Commission statistics will be used to determine BC's official Continuous Quota percentage of production.

C. Provincial Penalty -Over Quota Production

All producer penalty money collected less any provincial penalty money paid will be kept by the Board until the fund reaches a balance of $1 million. All penalty money exceeding this limit will be added to the monthly pool. Any provincial penalty money will be deducted from the pool on a monthly basis if there are no producer penalty funds to cover the provincial penalty.

D. Deemed Quota

Effective August 1, 2010, any shipments below 4.11% (15 days) will be deemed as produced. There will be no opportunity to recover lost revenue.

3. Credit Days

A. Over Credit Days

i) The positive credit day limit +5 days.

ii) Producers may accumulate up to +5 credit days and receive full payment for those shipments.

iii) Credit days produced in excess of the +5 Over credit day limit (excess kilograms of butterfat) will receive zero payment, with the revenue from this excess production being used by the over quota fund. This excess production will be subject to all relevant deductions. The credit day position carried forward to the next month will be capped at +5 days. Producers cannot recoup these dollars in future months.

Note: Financial Penalty only applicable if BC's previous monthly Continuous Quota amount is at or above 100%. (Section 2 Production Limits)

B. Under Credit Days

i) The Under credit day limit is -15 days.

ii) Producers may accumulate up to -15 Under credit days without penalty.

iii) Credit days accumulated in excess of -15 days are deemed to be lost production opportunity and cannot be carried forward by a producer. There is no opportunity to recoup lost negative credit days in future months.

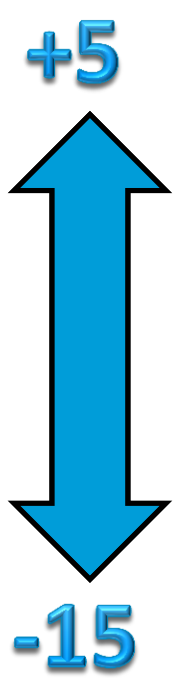
C. CDQ Specialty Credit Transfer Policy

i) Specialty producers are permitted unlimited access to transferring credits (KG) in/out within the specialty pool. Specialty producers are not permitted to transfer credits (KG) from/to the conventional pool without BCMMB approval.

ii) The minimum amount of any credit transfer (KG) is fixed at 25 kilograms

iii) Producers may buy or sell transfer credit kilograms as long as they stay within their lower and upper limits – should transfers incur over quota or deemed quota producers are responsible for any applicable penalties (See Section 2)

iv) Transfer Credit Transaction deadline is the 25th business day of the month, with the effective date being the 1st day of the same month or the first day of the following month



4. Quota Transfers

A. Specialty Transfer Policy

i) Specialty producers who own more than one specialty farm, may transfer SCDQ among specialty farms providing ownership on both farms is the same

ii) Board approval is required to all current specialty producers wanting to increase quota holdings; Requests will be held on a specialty wait list and will be addressed based on need in the specialty industry (See 6 for more detail)

B. Specialty Conversion to Conventional Production

i) Specialty producers must give six months written notice to the BCMMB for conversion to the conventional pool. Non-Compliance penalties will apply if notification is not provided to the Board. (See Section C(2 ii))

ii) All SCDQ (previously CDQ) will be converted back to CDQ for conventional production

iii) All specialty quota allocated or purchased for specialty production will be sold within the specialty production pool through a specialty quota exchange

iv) 10/10/10 & LIFO will be applied on all quota transfers

** Quota purchased on the conventional quota exchange or transferred in from a conventional farm would be converted back to conventional production.

C. Vacating the Industry

(1) <u>Specialty Producer leaving the Industry with 90 Days' Written Notice</u>

i) All SCDQ (previously CDQ) must be sold within two exchanges of the last milk pick up date

ii) All specialty quota allocated or purchased for specialty production will be sold within the specialty production pool through a whole farm transfer or specialty quota exchange

iii) 10/10/10 & LIFO will be applied on all quota transfers

(2) <u>Specialty Producer leaving the Industry without Written Notice</u>

i) All SCDQ (previously CDQ) must be sold on the first quota exchange that follows the last milk pick up date

ii) All specialty quota allocated for specialty production will be retracted at 100%

iii) 10/10/10 & LIFO will be applied on all quota transfers

D. Decertification

i) All conventional quota will be converted back to conventional production effective immediately

ii) All specialty quota allocated or purchased for specialty production will be suspended pending recertification

iii) Recertification (See Section 7 for requirements)

- Recertification process must be completed within a 120 day period
- If the recertification process time exceeds 120 days, the producer will be placed on the specialty wait list /expression of interest list and all quota allocated for specialty production will be sold within the specialty production pool through a specialty quota exchange

iv) Following the 120 day recertification period the 10/10/10 & LIFO will be applied on all quota transfers

5. Organic Sleeve & Quota Allotments

The Board reviews the specialty industry production requirements for February, May, August, November, of every year. If production requirements change due to vendor forecasts in the specialty industry, the Board will consider the following options (in order of priority) to fill the market:

A. Invitation to a new specialty entrant

i) The Board will select potential candidates for specialty production from the specialty wait list (See Section 6)

ii) The Board will review a business plan and certification of selected wait list applicants and may-invite producers to participate in specialty production through Board discretion and processor requirements.

iii) The Board will consider all qualified producers in British Columbia for organic milk production. Compensatory transportation freight charges will be applied to the organic producer as required. (See Section 7b)

B. Review and consider any existing producer expansion requests

i) The Board will review and approve all requests for expansion within the existing specialty production pool

ii) If demand by specialty producers exceeds available quota, requests will be filled by request date on a pro-rata basis up to a maximum of 30 kg per producer

- Quota for expansion must be purchased quota through the conventional quota exchange, specialty quota exchange, whole farm transfer or transferred from an existing conventional farm in which ownership is the same
- Quota purchased through the conventional quota exchange will be deducted from any existing sleeve allocated to the producer in order to maintain the specialty production pool volumes.

C. Sleeve issuance

i) If a sleeve is already being produced to fulfil industry requirements, the Board will review the sleeve and will advise appropriately specialty producers a minimum of three months in advance if any increases or decreases to the sleeve will take place.

ii) Sleeve will be applied on the date of issuance as long as the specialty producer is in operation

iii) If a sleeve is issued by the Board, a specialty producer must indicate intent to produce the sleeve through a written document to the BCMMB if requested.

D. Differential Allocations

i) The Board has the authority to allocate quota and sleeve between and within the conventional and specialty sectors

ii) Specialty producers will have any general allotments subtracted from sleeve and /or specialty allocations through the dairy year

For example, if a 1% general allotment is distributed August 1 and a 5% sleeve is issued to the specialty producers, specialty producers will receive:

- ***1% allotment***
- ***4% sleeve***

6. Organic Wait List

A. Specialty Producer Invitation Policy

i) Existing Dairy Producers (quota holders) interested in converting to specialty production must submit a written request to the BCMMB; all requests will be placed on the specialty Industry Production Wait List. The selection of candidates from the wait list is based on production volume and stage of certification (i.e. T1, T2, and Certified), selection will not be based on chronological order.

<u>All individuals on this list will be divided into the following categories</u>

1) Producers with current/valid organic certification
2) Producers with transitional organic certification
3) Producers with no certification

ii) GEP Candidates and New Entrants (non quota holders) with the intention to become specialty dairy producers must submit a written request to the BCMMB (as per section 6a);

iii) The Board will only provide an invitation to producers who hold quota to participate in the specialty production pool.

iv) Any individual is entitled to pursue specialty certification through a certifying body recognized by the BC government and/or Canadian government (See section 8 for more detail)

v) Only those producers who receive a commitment from the Board will be entitled to receive premium on the milk they ship

7. Pooling of Production and Transportation Costs

A. Specialty Pooling Policy

i) When market requirements are stable

- All specialty milk production is pooled

ii) When market requirements exhibit growth;

- All specialty milk production is pooled

ii) When market requirements exhibit a decline;

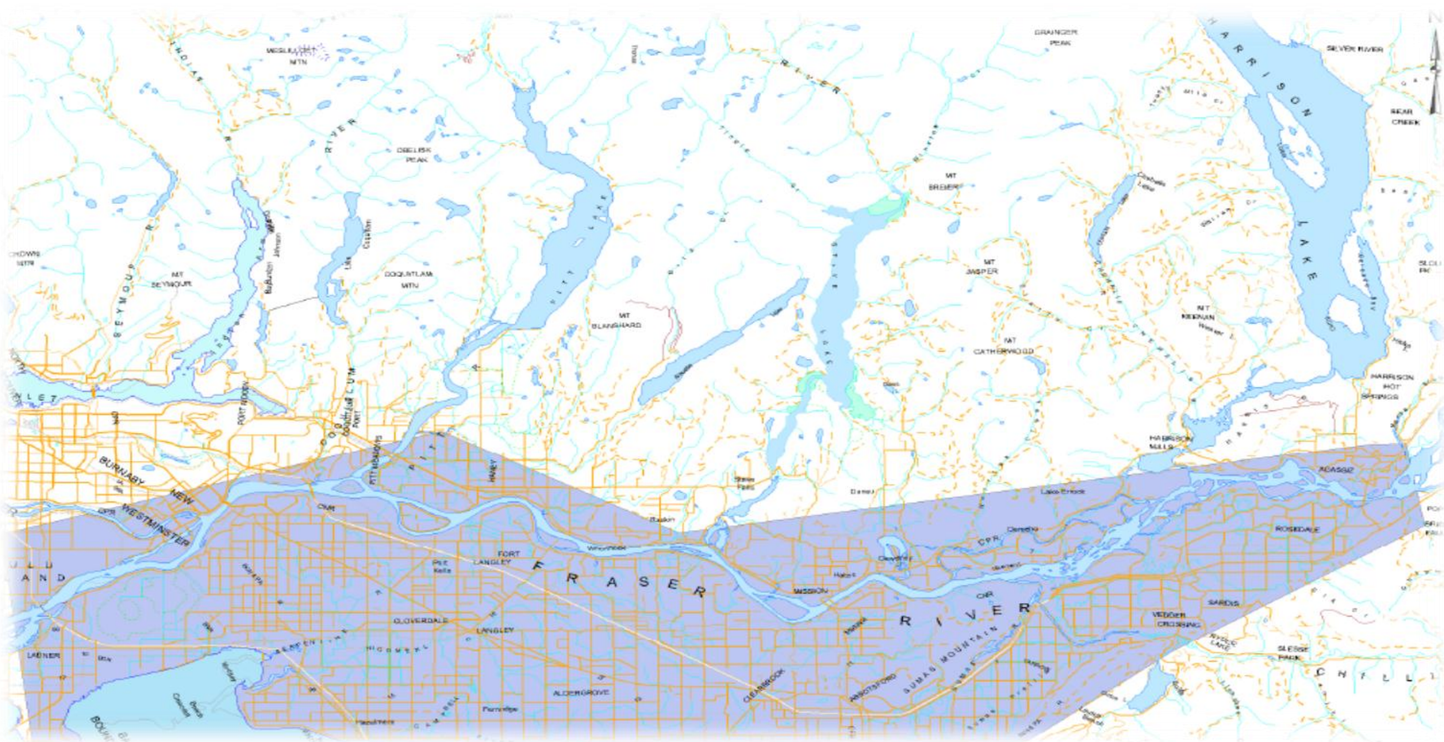
- All Specialty Producers will have specialty quota retracted on a pro-rata basis as per the Last in First out (LIFO) policy;
    - Specialty quota allocations
    - Specialty quota purchases
    - Conventional quota

- Specialty Producers who had previously agreed volumes and/or agreements to ship as of November 1, 2006 will maintain the November 1, 2006 production volumes for specialty production

B. Transportation Charges

i) All producers will pay the provincial freight rate.

ii) Additional compensatory transportation costs will be applied to producers if the cost of transportation exceeds the actual cost less the greater of the provincial freight rate or the zone rate



8. Organic Certification

A. Requirement to Provide Organic Certification

i) All organic producers, processors and transporters are required to provide evidence of their organic certification on an annual basis and will immediately notify the Board (i.e. prior to the next milk pick – up) of any changes to certification

(a) An organic producer must provide evidence of a valid certificate at all times. Should valid proof of a certificate not be provided prior to the expiration date on the current certificate, the organic premium will not be paid until such time that valid proof of certification can be provided to the Board.

ii) Certificates must be from an accredited organic certifying body recognized by the BC government and/or Canadian government.

iii) Expired certificates will result in suspension of participation in the specialty industry until such time as a valid certification is provided to the BCMMB

B. Loss of Organic Certification - Notification to Board

(BCMMB C.O. PART VIII - PRICES AND PAYMENT – Section 36)

(1) Every Certified Organic Producer who produces organic Qualifying Milk must immediately notify the Board of any decertification, or interruption or inability to produce organic Qualifying Milk.

(2) **~~Every Producer who produces naturally enhanced fatty acids Qualifying Milk must immediately notify the Board of any interruption or inability to produce naturally enhanced fatty acids Qualifying Milk~~**.

(3) Where a Producer has failed to notify the Board as required under subsections (1) or (2):

(a) The Board may deduct from any future payment due to that Producer the amount of any premiums improperly paid by Pool Participant Vendors;

(b) The Board may suspend payment of any future premiums that may be due to that Producer for a specified or unspecified time;

(c) The Board may impose terms and conditions with respect to the production, transportation, packing, storage or marketing of milk by that Producer and will suspend or cancel the licence held by, or quota allotted to, that Producer;

(d) The Board will set and collect a charge or series of charges against that Producer to recover the expenses incurred by the Board in connection with the imposition of terms and conditions with respect to the production, transportation, packing, storage or marketing of milk, and/or the suspension or cancellation of the licence held by, or quota allotted to, that Producer.

C. Loss of Organic Certification - No Warrantee or Representation by Board
(BCMMB C.O. PART VIII - PRICES AND PAYMENT-Section 37)

(1) No warrantee or representation is made by the Board with respect to milk received by a Pool Participant Vendor in furtherance of a request for organic Qualifying milk, except that:

a) Each Producer from whom such milk has been sourced has represented that the milk is organic Qualifying Milk from a Certified Organic Producer; and

b) At the time of shipment, the Board has not received notification of any decertification, or interruption or inability to produce organic Qualifying Milk by any such Producer.

(2) **~~No warrantee or representation is made by the Board with respect to milk received by a Pool Participant Vendor in furtherance of a request for naturally enhanced fatty acids Qualifying Milk, except that:~~**

~~a)~~ **~~Each Producer from whom such milk has been sourced has represented that the milk is naturally enhanced fatty acids Qualifying Milk; and~~**

~~b) At the time of shipment, the Board has not received notification of any interruption or inability to produce naturally enhanced fatty acids Qualifying Milk by any such Producer.~~

9. Specialty Vendor Policies

A. Specialty Milk Efficient Order/Delivery Policy (Effective March 1, 2013)

i) Weekly Order/Delivery

Specialty Processor Orders submitted for the week, which includes proposed specific volumes and delivery days, with flexibility for discussions with BCMMB regarding the requested volume and delivery day(s) will not incur any additional charges for delivery.
All weekly orders are subject to milk availability therefore discussion with BCMMB staff is required on all orders placed.

ii) Convenience Order/Delivery

Specialty Processor Orders submitted for the week with specific volumes and specific days and with no flexibility regarding the requested volume and delivery day(s) will incur an additional charge of $250/load to offset the additional costs for the transportation of milk. In order to support market development, convenience orders will have a 12 month transition period for developing products with no additional charges for delivery.
All weekly orders are subject to milk availability therefore discussion with BCMMB staff is required on all orders placed.

B. Processor Commitment Termination Policy

i) Vendor commitments will be applied on a three month rolling basis

- Decreases to processor commitments will be applied on a three month basis
- Increases to processor commitments will be applied based on milk availability to maximum of three months

ii) Vendors must confirm commitments to the BCMMB on a monthly basis by week.

- The BCMMB will provide a form that must be sent in with the D147 every month

iii) Vendors who do not confirm the commitment on this form and in this manner will be held to the previous months commitment

ORDER QUANTITY (LITRES)			
CURRENT DATE	CURRENT WEEKLY COMMITMENT (L)	COMMITMENT CHANGE / WEEK (L)	EFFECTIVE DATE OF CHANGE
JUN-12	100,000	90,000	SEP-12
JUL-12	100,000		OCT-12
AUG-12	100,000		NOV-12
SEP-12	90, 000		DEC-12

9. Specialty Vendor Policies (continued)

C. Processor Premium Obligation

Consolidated Order (VIII, 35(2), PG 39, AUG 2010)
Where organic Qualifying Milk ~~or naturally enhanced fatty acids Qualifying Milk~~ is not received by any Pool Participant Vendor in accordance with a Pool Participant Vendor's planned annual forecast of milk requirements as provided to the Board, that Pool Participant Vendor shall pay to the Board the applicable premium on 95% of the Qualifying Milk so shipped and not received by that Pool Participant Vendor.

i. Individual processors will be charged the premium on all organic milk ordered and received where this volume is greater than 95% of their committed (forecasted) volume.

ii. If milk ordered and received is less than 95% of their committed volume, the individual processor will pay the organic premium on 95% of their committed volume but only to the extent necessary to cover any volume of milk shipped to the PLR up to 95% of the that individual processors committed (forecasted) volume.

iii. If milk is not shipped to the PLR, the policy is not applied however processors are still required to pay the premium on all milk ordered and received.

Processor	Litres Committed	Shorted by BCMMB	95% of Commitment less Shorted Litres	Litres Received	95% of Committed Litres less Received	PLR Litres Charged to Processors up to 95% of Commitment
1	356,143	0	338,336	333,090	5,246	5,246
2	465,492	0	442,217	460,540	(18,323)	0
3	535,714	0	508,928	556,676	(47,748)	0
4	64,286	0	61,072	60,015	1,057	1,057
5	64,286	0	61,072	91,000	(29,928)	0
Total	**1,485,921**	**0**	**1,411,625**	**1,501,321**	**(59,768)**	**6,303**

Glossary of Common Terms

"**Certified Organic Producer**" means a Producer who is the holder of a valid and subsisting certificate issued pursuant to the Agri-Food Choice and Quality Act, S.B.C. 2000, c. 20 and the Organic Agricultural Products Certificate Regulation, B.C. Reg. 200/93 or such other standard and regulation approved by the Board certifying that the Producer meets the standards applicable to organic farming;

"General Allocation" means quota allocated to British Columbia from the Canadian Dairy Commission that is used for the production of milk

"Over Quota Fund" means all producer penalty money collected less any provincial penalty money paid will be kept by the Board until the fund reaches a balance of $1 million. All penalty money exceeding this limit will be added to the monthly pool. Any provincial penalty money will be deducted from the pool on a monthly basis if there are no producer penalty funds to cover the provincial penalty.

"Premium" means funds set by the Board, paid by vendor to compensate for the higher cost to the specialty producer

"Sleeve" means additional production allocated to specialty producers to meet market requirements on a temporary basis

"Specialty Allotment" means quota provided to a specialty producer for the purpose of the production of organic milk. The quota is subject to 10/10/10 and LIFO if sold and can be used only for specialty production

"Specialty Continuous Daily Quota (SCDQ)"

a) a concurrent quantity of Provincial Fluid Quota and Federal Fluid Quota expressed in kilograms of butterfat per day;

b) a concurrent quantity of Provincial Manufactured Milk Quota and Federal Manufactured Milk Quota expressed in kilograms of butterfat per day; or

c) an aggregate of (a) and (b); that is used for specialty production and includes a share of such Continuous Daily Quota when allotted to Producers

"Specialty Production" means organic Qualifying Milk produced by a Certified Organic Producer.

"Specialty Quota Exchange" means a Quota Exchange that is run only for specialty producers

"Total Allowable Production" means SCDQ+ Organic Sleeve + Organic Allotments

"Transferable Quota" means any quota converted by a producer from conventional to specialty and does not include specialty quota allocated by the Board

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