

BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION

DELIVERY ALLOCATION TRANSFER POLICY

Purpose

The purpose of this policy is to provide information in addition to what is set out in the General Order having regard to the transfer of Delivery Allocation; it is to be read together with the May 2009 VMC Delivery Allocation Transfer Policy; and the application filing deadlines set out in this November 19, 2014 approved policy take precedence.

Overview

Aligning demand and supply of regulated storage crops marketed by designated agencies with each producer's assigned Delivery Allocation is fundamental for attaining and maintaining orderly marketing. The rules pertaining to the transfer of Delivery Allocation are structured for achieving supply equilibrium throughout the Regulated Area.

Objective

Establishing the below listed Delivery Allocation transfer rules will:

- identify amounts of assigned Delivery Allocation eligible for transfer involving a transferor and a transferee that are at 'arms- length';
- require eligible 'arms- length' delivery allocation transfers to be those where a producer's entire assigned delivery allocation must be transferred to one or multiple transferees;
 - for regulated crops with monthly delivery allocation periods all assigned delivery allocation for each attendant delivery allocation period must be transferred
 - for potatoes where there are five delivery allocation categories and date certain delivery allocation periods a transfer must be for the entire assigned delivery allocation category and each of the attendant delivery allocation periods
- provide for a partial transfer of Delivery Allocation to a Family Member (a defined term);
- establish that the transferor of a certain storage crop delivery allocation is prohibited from being a transferee in a delivery allocation transfer application involving the same crop and attendant delivery allocation periods until three successive crop years have transpired since the date of the initial transfer; and
- establish that consequent to a Delivery Allocation transfer where the transferee is assigned Delivery Allocation for a certain storage crop for attendant delivery allocation periods, which may be an initial amount or an additional amount, the eligibility to transfer that delivery allocation may only occur once the transferee has used the delivery allocation in a manner provided for in the General Order (demonstrate that shipments occurred through a designated agency).
 - In the instance of extenuating circumstances the VMC may reach a decision about approving a request to transfer delivery allocation that varies from this policy or the provisions governing the transfer of delivery allocation set out in the General Order

Transferring Delivery Allocation

Section 8 of Part XVI – *Production and Delivery Allocation –General* – of the General Order provides for the transfer of Delivery and Production Allocation.

Throughout the Regulated Area Delivery and Production Allocation is transferable between and among licensed Producers and prospective producers intending to obtain a Producer license. For the purpose of reaching decisions and determinations regarding the transfer of Production and Delivery Allocation the VMC will rely on what is provided for in Part XVII of this General Order as well as policies established regarding Production and Delivery Allocation transfer, which may change from time to time.

Delivery Allocation Transfer

The transfer of a Delivery Allocation is to occur once a year and just prior to the start of the new crop year. The transfer is subject to the following conditions:

- (a) all applications for transfer of a Delivery Allocation must be on a form prescribed by the Commission;
- (b) all applications for transfer of Delivery Allocations must be filed with the Commission not later than December 31 of each year;
- (c) other than for a transfer that involves a ‘family member’ the transfer of delivery allocation is for a crop specific Delivery Allocation and for each attendant Delivery Allocation period where the transferor must transfer all of the assigned Delivery Allocation to one or multiple transferees;
- (d) unless otherwise specified by the Commission, all transfers of Delivery Allocation shall take effect in the ensuing crop year commencing after the application deadline; and
- (e) only that portion of assigned Delivery Allocation that has been “earned” is eligible for transfer.
Note: Earned Delivery Allocation and Granted Delivery Allocation are defined terms set out in the General Order

Delivery Allocation Transfer Application Submission Deadline

The annual December 31 application deadline will come into effect on June 1, 2015. Until that time the application deadline for the VMC to receive in-time delivery allocation transfer applications for having effect the 2015-2016 crop year is February 15, 2015.

Delivery Allocation Transfer Decisions, Determinations and Coming into Effect

Delivery Allocation for Having Effect the 2015 - 2016 Crop Year

Applications for the transfer of Delivery Allocation in the transition year before the December 31 filing deadline comes into effect and for having effect the 2015-2016 crop year are to be received by the VMC during the January 15 – February 15, 2015 period. Applications received prior to January 15, 2015 will be returned to the applicant(s). Applications arriving the VMC office after February 15, 2015 will not be considered as an in-time application.

The VMC will endeavour to communicate its decision whether a delivery allocation transfer request is approved or denied by March 1, 2015.

Delivery Allocation for Having Effect the 2016 - 2017 Crop Year and Thereafter

Applications for the transfer of Delivery Allocation for having effect the 2016-2017 crop year and thereafter are to be received by the VMC no later than December 31 2015. The VMC will receive applications during the November 1 – December 31 period. Applications received prior to November 1 will be returned to the applicants. Applications arriving the VMC office after December 31 will not be considered as an in-time application.

The VMC will endeavour to communicate its decision whether a delivery allocation transfer request is approved or denied by March 1, 2016.

Delivery Allocation Transfer Outcome

Subject to the parties involved in the Delivery Allocation Transfer application two outcomes may result.

One outcome is when a Designated Agency's supply of regulated product is unaffected on the VMC approving it while the second outcome is one when a Designated Agency is to experience a supply reduction (migration of Delivery Allocation volume) while another agency is to experience a supply increase.

Migrating Delivery Allocation Volume

Applicants are to inform themselves of other related VMC policies regarding the transfer of Delivery Allocation when the outcome is one where there is migration of volume from one designated agency to another.

Also, in the instance of delivery allocation migration the transferee is to demonstrate to the VMC that communication with his/her designated agency has occurred and the agency is prepared to market the increasing crop volume. Failing to demonstrate to the VMC that the transferee's designated agency of record is prepared to represent the increasing crop volume may be grounds for the VMC to deny the delivery allocation transfer application.

Transferor Not to Plant for Marketing through Designated Agency

As the transferor has transferred the entirety of an assigned Delivery Allocation for a certain regulated crop and attendant delivery allocation periods its production must fully cease. If a producer fails to cease production and in future a volume is available the VMC will instruct the producer's designated agency not to receive the crop for marketing because the producer is unable to demonstrate assignment of Delivery Allocation for the said crop.

Such production occurring absent the assignment of delivery allocation can only be marketed in compliance with the General Order. Marketing of regulated product not involving a designated agency, but otherwise is in compliance with the General Order, will not result in earning delivery allocation.

Approved:
November 19, 2014