Agriculture and Agri-Food Canada
Agriculture et Agroalimentaire Canada

Agricultural Marketing Programs Act (AMPA)

Legislative Review Advance Payments Program

Spring 2011 Engagement Sessions

Canada

Agricultural Marketing Programs Act (AMPA) Legislative Review Advance Payments Program,
Spring 2011 engagement sessions.

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Introduction

The Advance Payments Program (APP) and the Price Pooling Program (PPP) are enacted and governed by the *Agricultural Marketing Programs Act* (AMPA), a statute initially passed by Parliament in 1997.

The AMPA requires that a legislative review take place every five years in consultation with the Minister of Finance. The five-year anniversary was on November 27, 2011.

The review's focus is to evaluate the AMPA programs against their established objectives and determine if they continue to meet industry needs. The review analyzes the current operations and delivery of the APP to identify potential improvements to aid in carrying out the program's mandate, while respecting its core principles and parameters.

In the spring of 2011, Agriculture and Agri-Food Canada (AAFC) engaged stakeholders to gather feedback on the operations and delivery of both programs.

With regards to the APP, eight engagement workshops were held in New Brunswick, Quebec, Ontario, Manitoba, Alberta, and British Columbia with financial institutions, producer organizations, and APP administrators. Each workshop took place over a full day. Participants were sent specific questions in advance, and those unable to attend the workshops were invited to respond in writing[1].

The general opinion of the APP was positive, and participants engaged in a candid dialogue on many facets of the program[2]. Many of the organization representatives participating were also producers who expressed their appreciation for the program and the opportunity to share their views.

It is important to note that while workshop participants did initiate some discussion with regards to Emergency Advances for Severe Economic Hardship, it was not included as a topic within the sessions. This provision of the AMPA is being evaluated separately, and stakeholders have had the opportunity to provide their feedback through a distinct consultation process.

This report provides a summary of what was heard during the sessions and incorporates the range of ideas and opinions of the participants. The factual accuracy of any of the views expressed was not evaluated.

[1] Please see Annex A for a list of dates and locations of the workshops.

[2] Please refer to Annex B for the topics and questions given to participants.

1. Program Relevancy

- There is consensus in the industry that overall, the Advance Payments Program (APP) is still relevant, working well and efficient.
- The APP does not compete with financial institutions and does not displace other financial tools. The APP is one tool in the financial tool chest of a producer. For many farms, the amount of financing received through the program is a small portion of the farm's overall financing. The exact proportion comprised by APP varies with farm size. It has minor relevance for larger operations.
- APP producer benefits are better than regular commercial lending practices as the program offers improved interest rates and greater flexibility for repayment terms.
- From an economic perspective, the low-cost borrowing aspect of the APP has a positive impact on net farm income and financial position. In addition, the low cost borrowing aspect of the program triggers higher participation which ultimately reinforces the program objectives linked to the orderly marketing of an eligible commodity.
- The level of program relevancy differs depending on the commodity type (Livestock, Field Crops, Horticulture, etc…). In addition, program relevancy is greater for young producers and for producers in precarious financial situations where financing options are limited.
- Participation in the APP may have an impact on a producer's accessibility to other financing tools offered to the agricultural industry. The most notable impact relates to lenders reducing the amount of a producer's line of credit by the amount of his/her APP advance. However, this practice depends on the financial strength of the producer and/or the nature of the security provided for the line of credit.
- Program relevancy will increase in the coming years due to the restrained lending market in the agricultural sector and higher interest rates.
- On many occasions, the program complements other federal and provincial Business Risk Management (BRM) programs to meet the financial needs of producers. This is especially true on the Without Guarantee component of the APP.

2. Program Performance

- Agriculture and Agri-Food Canada (AAFC) has contracted a third party to conduct an evaluation of the relevance and performance of the APP. This evaluation involves a review of the APP Electronic Delivery System data, Farm Financial Survey data, interviews, producer questionnaires, and case studies. This analysis was completed in the summer of 2011 and was shared with the industry at that time.

- The program objective to assist producers to meet short-term financial obligations and sell their product when prices are most favourable is met efficiently. However, the marketing objective of the program is less relevant for non-storable commodities or the livestock sector where the marketing schedule is pre-established at the time the producer receives his/her advance.

- Although the program averaged more than 31,000 participants annually over the last six years, there is consensus among industry stakeholders that the APP doesn't attract all potential participants in the industry. The following program participation barriers have been identified by the industry:

  - Program limits – with the current caps, the program is not attractive to medium and large scale operations;

  - Security requirements - personal guarantees, priority agreements, current inventory (livestock);

  - Administrative Burden in relation to the application process;

  - Lack of program visibility/knowledge within the industry;

  - Commodities in pre-production where the only security available is Agri-Stability;

  - Administration fees;

  - Timing of advances - many producers would be more likely to apply if the application process began in March instead of April;

  - No online application options for producers.

3. Service Delivery Model

- The APP is delivered by more than 60 administrators across Canada. While many activities are delivered under a single administrator in some provinces (Ontario, Prince Edward Island, field crops in western provinces), other provinces have commodity-specific administrators (Quebec, Nova Scotia). The number of participants per administrator varies from 6 to more than 10,000.

3.1 Evaluation of current model

- There is consensus across the country with regards to the effectiveness and flexibility of the current model. The following outlines the advantages and benefits of the current model:

Advantages of Current Service Delivery Model

- The proximity and close relationships between participants and the administrator have the following benefits:
  - Creates a strong sense of community by regional commodity group;
  - Producers are able to manage advances from more than one administrator in order to maximize interest free benefits;
  - Administrators are often part of the integrated value chain of a sector, which makes it easier to collect repayment from buyers or directly from the producer;
  - Easier collection of defaulted accounts which translates into lower default rate;
  - Administrators understand the sector and are in a better position to make program decisions in the best interest of the producer and in the interest of AAFC;
  - Regional flexibility;
  - Better promotion of the program.

Disadvantages of Current Service Delivery Model

- Depending on their location, a producer who grows more than one commodity type may be required to apply to multiple administrators to obtain advances on all of their products.
- On average, 25% of producers are applying to more than 1 administrator for a given production year.

3.2 Evaluation of national or provincial delivery model

- While most industry stakeholder agree that a one window service delivery approach would be beneficial for some program participants, the same stakeholders also agree that this model is not a right fit for the majority of the program participants.

- The industry feels that a model should not be forced on them, the model will self-evolve and adapt to regional realities (i.e. Ontario or Prince Edward Island, two provinces that went from commodity-specific administrators to centralized administrators over the years).

- Forcing a provincial or national delivery model would have the following disadvantages:

  . Some of the regional delivery models would be hard to replicate through a provincial Administrator or would add an administrative layer to the current model. For example, maple syrup advances in Quebec being issued by the provincial sales agency.

  . There is a possibility that the processing time of an application could increase rather than decrease because the variety of program requirements based on commodity type would complicate the delivery method.

  . Even with consideration for economies of scale, there is a probability that administration fees would increase as the majority of current administrators are producer organizations with different sources of revenue (memberships, funding from other government programs) which are often used to offset the global cost of delivering the APP to their members.

3.3 Alternative delivery models

- Quebec administrators have introduced a concept that could improve the current model without modifications to its core. The concept entails the centralization of certain administrative processes within the delivery model while maintaining the responsibility of key decision-making processes at the administrator level. For example:

  . Centralized processes: reception of producer applications, cheque issuance and processing payments.

  . Processes to remain with administrators: application approval, signature of repayment agreement with a producer, default management.

- Given the industry is against an imposed model and given such an initiative can't be applied across the country due to regional realities, such an approach would have to be industry-led with AAFC playing the role of facilitator.

- Another model that was discussed, pertains to allowing current Administrators to issue on any commodity. This concept was received with scepticism as the majority of Administrators do not feel they have the capacity or the expertise to adapt their operations to this model. AAFC would also need to address provisions such as granting stays of default before implementing this approach. Administrators would also be required to work closely together to avoid the duplication of advances, however the APPEDS is a good tool to control this risk.

3.4 Administrator's Liability

- The objective of the administrator's liability model is to make administrators accountable and diligent when issuing an advance. The administrator's liability can range from 1% to 15% and is based on an administrator's past default history.

- For the majority of administrators who are not-for-profit organizations and are consequently not able to cover the liability from their own funds, this liability is passed on to the producer by withholding an amount equal to the administrator's liability from the producer's advance. The holdback is normally placed in a trust fund and remitted to the producer once the advance is paid in full. Interest earned on the trust fund is either remitted to the producer or kept by the administrator to offset administration costs.

- From Program Officials perspective, this model is not efficient given the producer does not receive the full entitlement to the eligible advance. In addition, instead of supporting the producer with their cash flow and marketing options, the amounts withheld are put into trust funds. While in the trust funds, both AAFC and the producer are paying interest on these holdbacks. On a large scale, this model can be costly for AAFC. For example, on a total amount advance of $1 billion and an administrator's liability of 1%. The total amount held in trust would represent $10 million and the interest cost to AAFC would represent $300,000 at a 3% interest rate.

- From the industry's point of view, opinions vary from one region to another on this program aspect; while some Administrators are satisfied with the current model; others feel some improvements could be made while achieving the same objective.

- Highlights from the comments received include:

  . The model is useless for administrators with no default risks such as administrators who have control over the stored commodity and are responsible for its marketing (honey and maple syrup).

  . The administrator's liability calculations should be based on 5 years instead of 2 years in order to moderate the weight of a bad production year.

  . Administrators would still be diligent and accountable without the administrator's liability.

  . A 0% administrator's liability would increase administration fees for some administrators due to the loss of revenue from interest earned on trust funds.

  . No producers have complained about the holdback.

  . Unfair to ask producers to pay interest on amounts held in trust funds.

3.5 Administration fees

- As per the AMPA, Administrators may charge fees to producers for administrative services, including fees for processing applications and for administering advances. The fees may only be charged for the purpose of recovering administrative costs.

- AAFC currently monitors and controls this aspect of the program through compliance and formal audits. This part of the program seems to be running well as only one complaint was received from a producer due to high administration fees. This complaint triggered an audit that concluded the administrator was in compliance with AMPA.

- Administrators are using different methodologies to set administration fees:
    - Flat fee;
    - % of total amount advanced;
    - Incremental increase of flat fee or % of total amount advanced;
    - Interest spread on interest bearing portion of an advance.
- On average, administration fees range between $250 and $1,000 and often depend on the amount of the advance. For many administrators, the delivery of the APP is among other services offered to their members and other sources of revenue (membership fees, other provincial/federal programs) are often used to cover the total expenses related to the delivery of the program.
- Highlights from the comments received through the engagement sessions include:
    - Producers can complain to the administrator's board of directors if they think the administration fees are too high;
    - The federal government should cost-share part of the administrative fees;
    - The current system is working well;
    - There was consensus among the industry to not set a cap or further regulate the use of administration fees.

3.6 Evaluation of a Producer's Credit Worthiness

- The criteria for the evaluation of a producer's credit worthiness are outlined in the Advance Guarantee Agreement between AAFC and each administrator.
- The criteria are often high level and pertain more to determining who requires a credit check rather than what the credit check entails. In consultation with AAFC, each administrator is responsible for establishing their own policy as to what qualifies as a credit check prior to the issuance of an advance.
- During the engagement sessions, industry stakeholders were asked if the current regime is appropriate. Highlights from the comments received include:
    - The current regime is appropriate and the low default rate demonstrates its effectiveness;
    - The implementation of new rules pertaining to credit checks would increase administration fees;
    - Administrators might not have the financial knowledge to implement new rules established by AAFC.

4. Services Provided by AAFC

The Financial Guarantee Programs Division of AAFC currently delivers the APP with the support of 60 administrators across Canada. On a yearly basis, administrators are required to formally apply to AAFC in order to sign a new Advance Guarantee Agreement and issue advances for the upcoming production year.

Throughout the year, AAFC supports administrators in the delivery of the program by assigning 6 regional managers and 10 program officers as direct contacts for them. In addition, AAFC provides each administrator with program guidelines, forms and a centralized electronic delivery system.

4.1 Administrator Application Process

- Despite its length, overall, the administrator application process is viewed as clear, user-friendly, and efficient with the exception of the following:
  - Establishing commodity rates are time consuming for administrators. They would prefer if the rates were provided by AAFC specialists with the opportunity to contest if there is any disagreement. Administrators would like to be provided with the rationale for recommendations by AAFC.
  - Timeliness of receiving rate recommendations is also an issue.
  - Audited financial statements are not usually ready in time for the application.
  - Administrators cannot negotiate banking agreements until March, which puts them behind in being ready to deliver the program for April 1st.
- The majority of Administrators were in agreement with the following:
  - To have Advance Guarantee Agreements (AGA) in place earlier than April 1st . This would alleviate last minute rushes in obtaining required signatures and approvals during what is already a very busy time for them. January 1st was the date preferred by most.
  - Administrator consensus is in favour of the implementation of a 5-year AGA.

4.2 Advance Payments Program Electronic Delivery System (APPEDS)

- Consensus was that Administrators need to have access to reports generated from APPEDS.
- Administrators raised several issues with regards to the scope of the system's current functionalities and requested enhancements to ease the reporting process:
  - The capability to generate a summary of all transactions for a particular day;
  - System time-out – administrators would like to have a save or data recovery option.

. Several agricultural products with the same production period – users must enter the production period for each product which requires going back and forth between screens. They would rather be able to indicate at the top of the section if the production period is the same for all products.

. Pre-populate the administrator application with historical data if applicable.

. The administrator application is locked once submitted to AAFC, so any changes must be made by program staff.

. Changes to shareholder structure or name of company during a production period creates problems with attribution, and when administrators must change the information in APPEDS, they first have to invalidate all prior transactions, re-enter new information and adjust attributions.

. APPEDS should calculate all penalties automatically.

. Defaults should get cleared out of the producer's Financial Summary.

. When reporting repayments on the Monthly Default Report, administrators cannot verify what was paid in interest and principal.

. Administrators feel they should not have to maintain complex spreadsheets of individual producer data as APPEDS should track everything.

. Possible matches – administrators would like to see all possible APP ID numbers in order to determine which is the correct producer, rather than having to consult program staff.

. APPEDS should have up-to-date, real time data so that administrators do not have the burden of verifying information with each other.

4.3 Tools offered by AAFC

- In general, program stakeholders are satisfied with the tools provided by AAFC for the effective delivery of the APP. Highlights of the comments received through the engagement sessions include:

. Forms and Guidelines should be ready by January so that Administrators can better prepare for the upcoming production period. Currently, by the time Administrators are in a position to send forms to producers, it is already mid- April and producers are occupied in the fields. This causes unnecessary delays in issuing funds at a time when producers really need them;

. Administrators would like to see a summary of changes to the Advance Guarantee Agreement in advance of each production period (track change).

. Producers should receive a card with their APP number as they never remember their numbers when contacting an administrator.

. AAFC staff turnover is an issue in some regions.

. Overall, the timeliness for the availability of all tools is very important.

4.4 Reporting and Administrative Burden

Overall, administrators feel that the level of reporting and administrative functions is acceptable, with the exception of the following:

- Monthly Default Reports (MDR) are long and cumbersome. Administrators are in favour of changing to quarterly reports.
- Delays are caused because Administrators have to wait until the previous months MDR is validated by program staff prior to being able to submit the next one.
- The requirement to submit Monthly Interest Claims within 15 days of month-end is unreasonable in many cases. Administrators also suggested moving to bi-monthly or quarterly interest claims.

5. Producer Application Process

On an annual basis, program participants are required to complete an application to obtain an advance under the APP.

5.1 Security on Advances

- One core principle of the APP is that an advance must be secured. There are two types of security that can be used according to the AMPA: a security in the agricultural product and a security in BRM program payments. Most workshop participants felt the current regime is appropriate, but had some concerns.
- The amount of advance a producer can receive is limited by the maximum value of either the security on the product or by the maximum amount that can be received by a BRM program when required by the Act.
- Highlights of comments from the engagement include:
  - With regards to AgriStability coverage, under normal conditions, consensus is that it limits eligible advance amounts since reference margins are too low compared to the amount eligible.
  - AgriStability is not suitable for mink and horticulture producers who wish to participate in the APP and do not have access to production insurance.
  - AgriStability is not perceived as a bankable program since timing of payments is not predictable nor aligned with the APP repayment deadlines.

- AgriInsurance premiums are prohibitive for some producers.
- Some indicated that there is a trend to fall-seeding in agriculture and administrators must be able to secure such advances in order for the producer to qualify for the APP. A system needs to be established with provincial agencies to file assignments for pre-production advances issued in the fall.
- For livestock, the expected value of the animal should be sufficient since many do not enroll in AgriStability due to low margins.
- Some would like to see AgriInvest as a security option.
- In pre-production, an alternative option should be made available to the industry to secure advances where producers do not have access to production insurance coverage.

5.2 Attribution Rules and Related Producers

- Producers are related for the purposes of the AMPA, if they do not deal with each other at arm's length. In the absence of proof to the contrary, producers are deemed related if they are individuals who are cohabitating or are related by blood (i.e. a child or descendant, sibling), marriage, common-law partnership, or adoption. Relatedness can also occur between a corporation and an individual, two corporations, members of the same groups of persons, or persons related to members of the same groups of persons.
- For the purposes of calculating the maximum amount of advance for an individual or entity, amounts advanced to a related producer are attributable to the applicant.
- In regards to related producers provisions, industry stakeholders indicated that:
  - The related producer rules are not practical and difficult to apply, and create unnecessary paperwork.
  - Rules are not helping young and beginning farmers given that equipment can not be shared. Sharing of equipment is a common reality in the industry.
  - Rules pertaining to spouses don't reflect industry realities.
- In regards to attribution rules, most agreed that they are appropriate for achieving the purpose of deterring related producers from collectively reaching program limits. However, it was generally felt that they are difficult to apply:
  - When dealing with multiple corporations with common shareholders, attribution rules become very difficult to apply;
  - If BRM program administrations are satisfied that producers are operating distinctly, this should satisfy eligibility for APP;
  - We should rely more heavily on Producer Declarations as administrators indicated they do not have the resources to police this provision;
  - Rules should accommodate family operations;
  - With regards to the Without Guarantee Agreements, where AAFC rebates the interest on the first $100,000 received under a provincial loan guarantee program, there is some disparity.

Under the provincial programs, where spouses have each received a loan, both will not qualify for the interest rebate under the APP as they are deemed related per the AMPA.

- All are in favour of aligning the related producers and attribution rules under the APP to the Income Tax Act (ITA), which would mean that each business entity would be eligible for full advances, provided they meet all other eligibility requirements.

5.3 Categories of Agricultural Products

The AMPA provides for different categories of agricultural products for which the Act has different security requirements. Thus, a product is either storable, non-storable, or livestock.

Most felt this system is working as intended, but shared the following comments:

- Removal of the farm-fed grain option with the inclusion of livestock has excluded other previous APP participants;
- Livestock is such a unique category that it should have a separate provision under the Act, and security should be based on annual production rather than actual inventory;

No comments were made when asked if the categories reflect the realities of the various types of production, or the benefits of classifying agricultural products in various categories.

5.4 Personal Guarantees

Under the APP, all shareholders, members or partners of the company, cooperative or partnership must sign a guarantee to be jointly and severally liable for any liability of the producer. Each partner, member or shareholder is individually and collectively responsible for the entire outstanding amount of the advance in the case of default. If any of the partners, members or shareholders do not sign the guarantee, no advance may be granted.

- Although most understand that the requirement for the signatures of all shareholders, members or partners is a risk mitigation tool, stakeholders are not in agreement with its necessity:
    - Unfair for corporations vs. individuals applicants;
    - Some corporations are not participating because one shareholder will not sign a personal guarantee for the full amount;
    - Availability of shareholders in remote locations or at long distances is an issue;
    - Requirement is not practical for cooperatives or colonies with members numbering in the hundreds.
- Suggestions:
    - Proportional liability (i.e. guarantee should be proportional to percentage of ownership);
    - Majority shareholder can sign for 100% of liability;
    - Align with financial institutions and only require 85% majority shareholder signatures;
    - Remove the requirement completely;
    - Most stakeholders feel that the personal guarantee requirement restricts applications by some who need the program.

5.5 Ineligibility Period

The AMPA states that the Advance Guarantee Agreement (AGA) may provide that the producer continues to be ineligible for an advance for a specified period, even after the producer ceases to be in default. As the ineligibility period is set out in the AGA, it can differ among administrators.

In addition, the ineligibility period is only applicable with the Administrator that implements it. Once out of a default situation; a producer has the ability to obtain an advance from another Administrator.

- Highlights of the comments received include:
  - The ineligibility period has no effect in deterring producers from going into default since it is not a voluntary choice on their part. However most feel that it is a positive deterrent.
  - All administrators feel that AAFC should not standardize an ineligibility period and it should remain their responsibility. They also prefer to have the flexibility and discretion to apply this on a case-by-case basis.
  - Sector differences makes it difficult to have a one- size fits all approach since some sectors may be more vulnerable to defaults compared to others depending on market conditions.
  - It provides administrators with additional authority to refuse high-risk producers.
  - Some producers may liquidate their product early to avoid default and the ineligibility period, which could interfere with orderly marketing.

5.6 Producer Application

On an annual basis, program participants are required to complete an application to obtain an advance under the program. The application includes:

- Credentials;
- Requested amounts;
- Types of commodities;
- Personal guarantees;
- Priority agreement;
- Participant Declaration.

Highlights from the comments received at the engagement sessions include:

- When asked about potential improvements to the application process that would not jeopardize security requirements to protect the advance, a few comments were raised:
  - APP administrators should offer online applications;
  - Pre-approved Priority Agreements should be available;

- Administrators should have the capability to transfer money electronically to producer bank accounts;
- Turn-around time for some administrators is too slow.

- The producer application process is clear, efficient, and necessary. It may not be very user-friendly for new applicants who initially find it long and overwhelming.
- Many administrators customize forms according to their needs and also try to adapt them for user-friendliness.
- Currently the process can require a lot of back and forth between administrators and applicants.
- Some English and French forms are not the same.
- Producers do not see it as a burden given the amount of money involved.
- Administrators would like to see changes to forms from one year to the next in "track changes".
- All are in favour of multi-year producer repayment agreements with smaller, faster interim in-year applications.
- An online application would be very beneficial.
- AAFC should contemplate hiring a consultant with forms expertise.

5.7 AgriStability and AgriInsurance Participation

- The majority of stakeholders are of the opinion that the requirement to secure pre-production advances with AgriStability or AgriInsurance influences producers' participation in these programs.
- Livestock producers who may otherwise opt out of AgriStability are enrolling as a requirement under the APP.
- Alternatives should be offered for producers who only have AgriStability to secure pre-production advances.
- To obtain higher pre-production advances, it was suggested that the use of personal guarantees be allowed as security so that producers would not have to wait until post-seeding to obtain additional funds.
- Statistics should reveal an increase in AgriInsurance participation since spring advances were made available in the mid-nineties.
- Consensus is that the APP does not create an incentive to take higher coverage levels under AgriInsurance. Producers would only opt for increased coverage if it makes good business sense.

6. In-Year Management

6.1 Repayment of an advance:

- Once an advance is issued to the producer, the main role of the administrator consists of monitoring and controlling the repayment of the advance as the commodity is sold.
- The means by which an advance can be reimbursed is limited in the Act to five ways (paragraph 10(2)(a)):
  . Paying the Administrator directly with the proceeds of a sale made by the producer to someone other than an authorized buyer;

  . Selling the product to an authorized buyer tasked with paying the Administrator from an amount withheld from the proceed of sale;

  . Paying the administrator from payments made under BRM programs;

  . Assigning to the administrator future payments from a BRM program;

  . By making cash repayment without proof of sale within the limits of the Regulations.
- During the engagement sessions, industry stakeholders were asked if the current regime is appropriate. While some industry suggestions should be considered to improve program operations, others would definitely go against the marketing spirit of the program. Highlights from the comments received at the engagement sessions that would be contrary to the marketing spirit of the program:
  . Rollovers from one year to the next should be allowed (revolving line of credit);

  . Producers should be able to repay in full without interest penalties if they can prove product is still on the farm (speculators);

  . Statutory declaration that confirms product was sold should be allowed (risk of fraud or mass usage is considered high);

  . Repayment at higher rate – producers should be able to use this concept to avoid cash repayment interest penalties, it is too difficult for producers to decide at the time the repayment with proof of sale is made (speculations);

  . Choosing to convert commodities into farm fed should not be penalized (farm fed grain is not considered sold);

- Cash repayment should only apply to the first $100,000 of an advance (not within the marketing spirit of the program);
- Cash repayment threshold should be increased to 25% of the total advance (not within the marketing spirit of the program);
- Repayment within 7 days from receipt of sale should be moved to 30 days (delay is too long).

- Highlights from the comments received at the engagement sessions for consideration:
  - Rollover with proof of sale should be allowed;
  - Repayment without interest penalties should be allowed when the producer is deceased. In the same line, repayment with life insurance benefits should be allowed;
  - Section 11 of AMPA (unmarketable agricultural product), should be changed to allow a producer to repay without interest penalties;
  - Repayment at the same advance rate should be abolished; administrators should be able to look at total amount repaid only;
  - Administrators would like producers to have the ability to repay with proceeds of other commodities since AgriStability is too slow and causes defaults;
  - A producer should be able to apply for a farm-fed grain advance and repay the advance with the proceeds of the livestock sales.

6.2 Proof of sale:

- Currently, proof of sale is established by two methods: requiring sales receipts and by on-farm inspections.
- Highlights from the comments received at the engagement sessions include:
  - Cash repayment and overpayment limit should be harmonized to the greater of 10% of the advance or $6,000. Currently, cash repayment is 10% of the advance or $1,000.
  - Proof of sale should not be required for non-storable commodities; instead, the repayment deadline should be aligned to when the commodity becomes perishable.
  - To respect the marketing intent of program, proof of sale is required.
  - This policy can be difficult for producers selling products at farmers markets.

7. Default Management

Prior to and in the event of producer default, administrators are tasked with certain obligations as part of their due diligence. These include sending notices advising of impending default or that a default has already occurred, working with the Farm Debt Mediation Services (FDMS), and undertaking collection activities such as negotiating settlement arrangements with defaulted producers.

Highlights from the comments received at the engagement sessions include:

- Most administrators are in agreement that AAFC provides sufficient support in terms of knowledge and tools to allow defaulted advances to be recovered in an efficient manner:
  - The addition of the new Default Management Team has improved the processing of files where the administrator has requested that the Minister honour the guarantee;
  - Forms and APP Administration Guidelines are helpful;
  - Administrators would like the capability to generate reports and records from APPEDS, and would like an orderly validation of Monthly Default Reports by program staff;
  - The capacity problems with bulk electronic file transfers in the past seem to have been resolved in recent months.
- All administrators feel that the program currently has enough deterrents to discourage producers from going into default, which is evidenced by the program's low rate of default.
- AgriStability payments are not in sync with the APP production period, often, producers will go into default because Agristability payments are paid a year later.
- There was consensus that the interaction between the APP and FDMS is aligned and efficient, and has improved drastically since the implementation of new procedures:
  - Administrators do feel that all APP advances, where FDMS applications under section 5.1(a) – Stay of Proceedings are filed, should be sent to AAFC immediately, including those advances already in default.
  - Administrators would also like to receive follow-up information on what occurred at the mediation sessions.
  - Administrators would like to receive additional FDMS training.
- All administrators agree that the requirement to sign a settlement agreement is an efficient tool in recovering defaulted advances.
- Some comments and suggestions received:
  - Administrators like having the management flexibility to work arrangements out with producers on a case-by-case basis.

. A suggestion was made to standardize the settlement agreement form which would be used at the onset of default, but which could also be customized if the producer's situation warrants it.

. Asking producers to sign a settlement agreement within the initial advance application would not be effective.

8. Stays of Default

(Please note that the following does not relate to the stays of default granted to cattle and hog producers with outstanding 2008 advances under the Severe Economic Hardship provision.)

If a default for a group of producers in a specific sector or region is impending the AMPA allows for the Minister, at the request of the administrator, and prior to the end of the production period, to order the default to be stayed for a specified period on any terms the Minister may establish. A stay of default is only used in situations where there are no market opportunities for producers to sell their commodities and reimburse their advance and/or when producers face extremely difficult financial situations.

Currently, impending is interpreted as two to three months prior to the anticipated default.

Highlights from the comments received at the engagement sessions include:

- The majority of stakeholders feel that the current approach under which the Minister my grant a stay of default is not sufficiently predictable for affected producers.
- In certain cases, the interpretation of impending as 2-3 months prior to default creates undue stress and can negatively affect the business decisions of producers. More lead time would be appreciated to allow administrators and producers to more effectively manage their situation.
- Producers should have the ability to request a stay of default directly to AAFC.
- The Administrators' capacity to manage proposed stay of default terms and conditions should be taken into consideration.
- All would appreciate the ability to request a stay of default at least 4 months prior and 1 month after default. This approach would alleviate stress and uncertainty, and would provide more flexibility.
- Stakeholders agree that stays of default meet the objective of helping producers repay their advances and avoid going into default. However, they are only effective if they are granted for the appropriate reasons (i.e. in the case of market downturn, but not for market breakdown). Stays allow time for BRM program payments to be issued to repay advances.

Conclusion

Over the course of the engagement sessions held across the country, many views were expressed. There was consensus on various issues, but also differing opinions which spanned the diverse regions, sectors and commodities represented. While some of the points raised would require legislative amendments, others impact the operational and policy side of the APP and have potential for possible quick implementation. All ideas and viewpoints are being reviewed and assessed by program officials and will provide a basis for program enhancements going forward. Program stakeholders will be made aware of expected changes in a timely manner.

Annex A

The dates and locations of the workshops were as follows:

March 15, 2011 – Toronto, Ontario (with financial institutions)

March 16, 2011 – Guelph, Ontario

March 17, 2011 – Longueuil, Quebec

March 18, 2011 – Moncton, New Brunswick

March 23, 2011 – Edmonton, Alberta

March 25, 2011 – Winnipeg, Manitoba

May 4, 2011 – Kelowna, British Columbia

May 9, 2011 – Ottawa, Ontario

Annex B
Areas of Discussion

Program Relevancy

Introduction: The objective of the APP is to improve marketing opportunities for the agricultural products of eligible producers by guaranteeing the repayment of the advances made to them as a means of improving their cash-flow.

Questions: Does the APP displace private sector financial tools? If so, do the producers benefit from the APP relative to what could be made available from private lenders?

With the support of the APP, can producers meet short term financial obligations and sell their product when prices are most favourable?

From an economic perspective, does the low-cost borrowing aspect of the APP have a positive impact on net farm income and financial position?

Does the APP impact accessibility to other financing tools offered to the agricultural industry?

Does the APP complement or duplicate other Federal and Provincial BRM programs to cover the financial needs of producers?

Program Performance

Questions: Does the APP attract all potential participants in your industry. If not, what barriers exist to participation?

Does the APP meet its objectives efficiently?

Do other government or non-government tools exist that could be used to achieve the objectives of the APP?

Delivery Model

Introduction: The APP is delivered by more than 60 administrators across Canada. While many activities are delivered under a single administrator in some provinces (Ontario, Prince Edward Island, field crops in western provinces), other provinces have commodity-specific administrators (Quebec, Nova Scotia). The number of participants per administrator varies from 6 to more than 10,000.

Questions: Is the current third party delivery model of the APP relevant, cost efficient and effective?

Are there any improvements that could be made to the current model? Would program participants be better served if national or provincial (rather than commodity-specific) producer organizations delivered the advances directly as administrators?

Is the administrator's liability model effective at achieving its objectives (requiring the administrator to be accountable and diligent when issuing an advance)?

Is the current framework pertaining to administration fees (Administrators set their own fees) working? Are there any suggestions to improve to current model?

Should AAFC try to standardize/cap administration fees to ensure consistency across the country?

Should AAFC implement more rules to evaluate a producer's credit worthiness?

Services Provided by AAFC

Introduction: The Financial Guarantee Programs Division of AAFC currently delivers the APP with the support of 60 administrators across Canada.

Questions: Is the administrator application process clear, user-friendly and efficient?

Is the Advance Payments Program Electronic Delivery System (APPEDS) efficient and user-friendly?

Are the tools offered by AAFC to Administrators (Guidelines, APPEDS, Assigned Program Officer/Manager) sufficient and of good quality to allow an Administrator to deliver the APP in an efficient/timely manner?

Is the burden of reporting and administrative duties required under the Advance Guarantee Agreement acceptable?

Producer Application Process

Introduction: On an annual basis, program participants are required to complete an application to obtain an advance under the program.

Questions:

- **Security on advances:**

One core principle of the APP is that an advance should be secured. There are two types of security that must be used according to the AMPA: a security in the agricultural product and a security in BRM program payments. Is the current regime appropriate?

The amount of the advance a producer can receive is limited by the maximum value of either the security on the product or by the maximum amount that can be received by a BRM program (AgriInsurance/AgriStability) when required by the Act. With regards to Agri-Stability coverage, under normal conditions, are producers able to obtain maximal pre-production advances?

Are the security requirements for pre-production advances flexible enough?

- **Attribution rules and related producers:**

Are related producer presumptions easily understandable?

Are the current attribution rules appropriate for achieving the purpose of deterring producers who are related from collectively reaching the program limits?

Are attribution rules easily understood and applied by producers/administrators?

- **Categories of agricultural products:**

The AMPA provides for different categories of agricultural products for which the Act differing security requirements. Thus, a product is either storable, non-storable or livestock: is that system working as intended?

Do the categories reflect the realities of the various types of production?

Is there a benefit to classifying agricultural products in various categories?

Producer Application Process

Questions: Is the requirement for the signature of all shareholders for personal guarantees reasonable? Does it restrict applications by some who need the program?

Ineligibility period: Is it efficient in deterring producers from going into default? Should AAFC try to standardize an ineligibility period?

Is the producer application process clear, user friendly and efficient?

Is the requirement to secure pre-production advances with Production Insurance or Agri-Stability influencing producers' participation in these programs?

Does the APP create an incentive to take higher coverage under AgriInsurance?

Are there any improvements that could be made to expedite the application process without jeopardizing the security requirements to protect the advance?

In-Year Management

Introduction: Once the advances are issued, Administrators must monitor and control the repayment of the advances as the products for which an advance was made are sold.

Questions:

- **Producer repayment:**

The means by which an advance can be reimbursed is limited in the Act to five ways (paragraph 10(2)(a)):

- Selling the product to an authorised buyer tasked with paying the administrator from a mount withheld from the proceed of sale;
- Paying the administrator directly with the proceeds of a sale made by the producer to someone other than an authorised buyer;
- Paying the administrator from the payments from BRM programs;
- Assigning to the administrator future payments from a BRM program; and
- By making a cash repayment without proof of sale within the limits of the Regulations.

Bearing in mind the program's core principles, is the current regime appropriate?

- **Proof of sale:**

Proof of sale is established by two methods: requiring sale receipts and by on-farm inspections. Bearing in mind the program's core principles, is the current regime appropriate?

Default Management

Questions: Does AAFC provide enough support in terms of knowledge and tools to allow defaults to be recovered in an efficient manner?

The program has many deterrents to discourage a producer from going into default (repayment of interest free benefits, ineligibility period, default interest rate). Does the program currently have enough deterrents to discourage producers from going into default?

Is the interaction between the APP and Farm Debt Mediation Services aligned and efficient?

Is the requirement to sign a repayment/settlement agreement an efficient tool to recover defaulted advances?

Area of discussion: Stays of default

Introduction: Each year, on average, the Minister of Agriculture and Agri-Food grants 3-4 stays of default to groups of producers who are having difficulty repaying their advances.

Questions: Is the current approach under which the Minister may grant a stay of default sufficiently predictable for affected producers?

Do stays of default help producers repay their advances and avoid going into default?