



BC Farm Industry Review Board

DRAFT TERMS OF REFERENCE

Prior Approval Application:

MPL British Columbia Distributors Inc. Agency Designation

The BC Farm Industry Review Board (BCFIRB) is considering the following January 12, 2022 recommendation from the BC Vegetable Marketing Commission (Commission):

That MPL British Columbia Distributors Inc. (MPL BC) be granted an agency designation to market BC regulated greenhouse vegetables.

Section 8 of the Natural Products Marketing (BC) Act Regulations (NPMA Regulations) requires BCFIRB to prior approve agency designations.

Agencies are businesses licensed by the Commission and prior approved by BCFIRB to market regulated B.C. products on the behalf of producers and to the exclusion of other businesses. Agencies are delegated certain legislative authorities by the Commission, to whom they are directly accountable.

Agencies secure and build access for B.C. regulated products in a wide variety of markets for regulated producers. Agencies also process, store, pack, label, and ship product on behalf of producers.

For consumers, agencies help ensure a steady, safe, high-quality supply of B.C. product by contributing to orderly marketing.

Overall, designated agencies play a front line and larger strategic role, assisting the Commission to regulate, manage and grow the regulated vegetable sector in an orderly fashion and in the public interest.

Agency designation is a privilege. It is non-transferable and is not approved in perpetuity. The Commission is responsible for conducting periodic reviews and assessments of agency designations to ensure that agencies are operating with good governance and within their statutory authority. Such assessments and reviews may also be required by BCFIRB.

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Scope and Focus

BCFIRB will consider the following questions:

1. Did the BC Vegetable Marketing Commission conduct a SAFETI-based¹ process?
2. Is the BC Vegetable Commission's decision to designate MPL BC as an agency in the public interest and consistent with sound marketing policy?

BCFIRB's prior approval role is to consider the above questions, address any procedural defects if necessary, and to assess whether the Commission's rationale and recommendation accords with sound marketing policy. It is the Commission's responsibility as the first instance regulator to demonstrate that it conducted a SAFETI-based process and reached a sound marketing policy-based recommendation. It is not BCFIRB's intent to replicate or repeat the full agency designation application process.

Participants

The following are eligible to participate in BCFIRB's prior approval process:

BC Vegetable Marketing Commission

MPL British Columbia Distributors Inc.

Agencies licensed to market BC regulated greenhouse vegetables

Producer-shippers licensed to produce and market BC regulated greenhouse vegetables

Wholesalers licensed to market BC regulated greenhouse vegetables, only if providing new or additional information not provided by a licensed agency or MPL BC.

Processors licensed to process regulated greenhouse vegetables.

Producers licensed to produce BC regulated greenhouse vegetables, only if providing new or additional information not provided by a licensed agency or MPL BC.

The Panel retains discretion to make directions regarding the form of participation and may allow additional participants if it determines that other individuals' or entities' interests are likely to be affected by the prior approval decision.

¹ Strategic Accountable Fair Effective Transparent Inclusive

Process

The prior approval process may be adjusted as necessary to ensure a fair process, appropriate stakeholder engagement and collection of the information necessary for decision-making.

The Panel anticipates that the supervisory decision in the Allegations of Bad Faith and Unlawful Activity supervisory review may inform this prior approval process. As the Panel deems necessary and appropriate, participants will be given an opportunity to address relevant matters including amending the Terms of Reference as part of this process.

Phase 1: Terms of Reference

Invite written submissions on the Terms of Reference by July 6, 2022. Finalize the Terms of Reference by July 15, 2022.

Phase 2: Written Submissions

Participants to provide written submissions in response to specific panel questions on the Commission process, rationale and recommendation. Commission has final reply.

Please be advised that all written submissions will be posted to the BCFIRB web site, unless there is a request for submissions to be made *in-camera*.²

Phase 3: Supervisory Hearing

In-person Supervisory Hearing. The Panel will notify the participants as to the form the hearing will take including order of presentation, time limits and other related issues following receipt of the written submissions.

Following the hearing, the Panel to determine if any further process and/or information is required before making its decision and notify the participants accordingly.

Phase 5: BCFIRB Decision

BCFIRB decision on MPL BC agency designation.

Phase 5: Outstanding appeals

Following the release of BCFIRB's decision on whether it will prior approve MPL as a designated agency, parties with outstanding appeals will be contacted by BCFIRB Case Management to advise of any outstanding matters remaining on their appeals. The Commission will have opportunity to respond to any submissions and the BCFIRB appeal panel will determine if any live issues remain to be addressed on appeal.

Contact

If you have questions regarding BCFIRB's prior approval process, please contact Wanda Gorsuch, Manager of Issues & Planning, via email at Wanda.Gorsuch@gov.bc.ca.

² Confidential information will be managed under BCFIRB's "[Protection of Privacy and Confidentiality in BCFIRB Processes and Reviews](#)" made under the Natural Products Marketing (BC) Act s. 7.1((7).