



November 12, 2019

File: 1680-04 EMB ELRUL

DELIVERED BY EMAIL

Gunta Vitins
Chair
BC Egg Marketing Board
250 – 32160 South Fraser Way
Abbotsford, BC V2T 1W5

Dear Ms. Vitins:

BRITISH COLUMBIA EGG MARKETING BOARD 2019 ELECTION RULES AND PROCEDURES REVIEW – APPROVAL

Under the *British Columbia Egg Marketing Scheme, 1967*, s. 18.1(2), election rules and procedures do not come into effect until approved by the BC Farm Industry Review Board (BCFIRB). I have been appointed by the Chair of the BCFIRB as a one-person panel to review the election rules and procedures of the commodity boards and commissions.

On September 5, 2019, the BC Egg Marketing Board (Egg Board) submitted their request to BCFIRB for approval of proposed changes to its' 2016 Election Rules and Procedures as follows:

1. Remove the regional representation replace with directors at large.
2. Add a Special Election option to address early term vacancies.
3. Add two Nomination Eligibility requirements:
 - a. Individuals are not eligible if they are a member of any other provincial or territorial egg marketing board; and,
 - b. Individuals must be Canadian citizens, residents of British Columbia, and at least nineteen (19) years of age.
4. Extend the election rule review timeline from three to five years.

Background

As part of its December 4, 2016 Election Rules and Procedures approval decision, BCFIRB directed the Egg Board to conduct thorough and meaningful consultation and analysis of its' regional board electoral model and nomination requirements, and to explore whether this model

**British Columbia
Farm Industry Review Board**

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continues to meet the needs of producers and deliver sound marketing policy outcomes for the industry.

As part of its January 2, 2018 decision approving a one-time exception to the Election Rules and Procedures for a special election, BCFIRB recommended that the Egg Board consider adding a special election option in its 2019 review.

Process

The Egg Board consulted with 203 of their producers and other stakeholders through an on-line survey held over one month. Forty four responses were received. Because of the low response rate, the Egg Board sought direct input from the Egg Industry Advisory Committee (EIAC), Production Management Committee (PMC) and the Egg Producers Association (EPA) on the significant question of removing regional director positions and replacing them with “director at large” positions.

After the Egg Board submitted the proposed changes to BCFIRB and its stakeholders, BCFIRB received a letter on October 7, 2019 from Running W Egg Farm Ltd. and Rice springs Farm Ltd. on Vancouver Island. The letter outlined the one family’s concerns and opposition to the proposed removal of regional representation. The letter also noted a concern about not receiving Egg Board emails for the consultation survey. Finally, the letter suggested allowing regional nominees to be nominated by producers across the province, but only allowing regional producers to vote for their representatives. I have reviewed this letter and taken it in to consideration as part of this decision.

I am satisfied the Egg Board conducted an inclusive and fair process. Seeking additional input from the EIAC, PMC and EPA was effective and strategic given the low response rate and the importance of the regional representation question. I am also satisfied the Egg Board met the previous BCFIRB directions regarding subject and process.

In my view, full consideration of the October 7, 2019 Vancouver Island producers letter remedies the survey receipt process concern. I also note that no other stakeholder came forward following publication of the proposed changes to report not receiving the original survey and subsequent reminders. In the future the Egg Board may want to consider adding a “received receipt” requirement when sending consultation emails.

Decision

Region Representation

I agree with the Egg Board rationale that emphasis be placed on finding strong, capable candidates. Removing regional representation requirements supports this objective by enlarging the pool of producers who can be nominated and elected to the board. I observe that all Egg Board members have been elected by acclamation since 2011 (elections held annually) due to only one nomination being received for the vacant position(s).

However regional knowledge and needs must be taken into consideration as part of Egg Board decision making.

I am satisfied with the Egg Board proposal and rationale for replacing regional board positions with directors at large on the following conditions:

1. As recommended by the EIAC and PMC, that regional director delegates be assigned to bring regional knowledge and needs to the board table; and,
2. The EIAC and PMC Terms of Reference be amended to require at least one regional appointment unless circumstances arise where an appointee is not available.

Review timeline

I do not approve extending the election review timeline from 3 to 5 years for the next review cycle.

I recognize that removing regional representation is a significant change and that some stakeholders have serious concerns about regional information and issues not being taken in to consideration by the Egg Board. Reviewing the rules in 3 years will allow for the Egg Board to fully consult with its producers and stakeholders on the outcome of removing regional representation and, if needed propose any changes in a timely manner.

Nomination eligibility requirements

The Egg Board has fairly broad latitude in establishing its election rules as long as it has regard to any express requirements in the Natural Products Marketing (BC) Act Regulations (Regulations) and the BC Egg Marketing Scheme (Scheme).¹

Section 18 of the Scheme establishes the Egg Board composition, including “4 members who are registered producers, elected by the registered producers”. Imposing further restrictions on what constitutes a registered producer for nomination purposes beyond the Egg Board’s Consolidated Order requirements narrows the pool of qualified registered producers and in my view would be open to challenge.

Section 3(o) of the Regulations also touches on eligibility. It states that “no person shall become ineligible to be a member of any marketing board or commission or a delegate under any scheme by reason of being or having been a member or delegate under any scheme”. While this section could be read as only having application to schemes under the *Natural Products Marketing (BC) Act, (NPMA)* “scheme” is not a defined term in the *NPMA*. It is not clear to me that there is a strong basis for ineligibility simply by the virtue that a BC registered producer may also be a registered producer in another province and sit on that province’s egg marketing board. In my view the proposed provision would be open to challenge as it unreasonably narrows the pool of registered producers who can seek nomination beyond that contemplated in the scheme. If a conflict of interest issue arises, it is more appropriately addressed through the Egg Board’s conflict of interest policies and procedures.

Similarly, as there is no requirement that a registered producer be resident in the province, this too could be seen as unreasonably limiting the nomination pool. However, I see requiring a registered producer to be at least 19 years of age as a reasonable restriction as it is important that a nominee have legal capacity to act as a director.

I approve the addition of the following nomination requirements:

¹ Regulations s. 3(h) every marketing board or commission shall take all steps necessary to carry out the provisions of the scheme established by order in council pursuant to the Act under which it is constituted relative to the election of members, and except as otherwise provided in these regulations or in the said scheme shall have complete control of such elections;

- a) "Individuals must be Canadian citizens" on the condition that "or have Permanent Resident status" be added to reflect the Egg Board's registered producer licencing requirements; and,
- b) at least (19) years of age.

I do not approve the addition of the following nomination requirements:

- a) Residents of British Columbia; and,
- b) Individuals are not eligible if they are a member of any other provincial or territorial egg marketing board.

Special election

I approve the Special Election addition.

My final approval of the BC Egg Marketing Board Election Rules and Procedures is subject to receiving an updated version reflecting my decisions above and a signed motion from the Egg Board that it has reviewed and formally approved the updated rules.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:

A handwritten signature in black ink, appearing to read "T. Leigh", followed by a period.

Tamara Leigh
Presiding Member

cc: BCFIRB web site