



August 26, 2016

File: 44200-60 VI VEG REVIEW

DELIVERED BY EMAIL

Alf Krause
Chair
BC Vegetable Marketing Commission
207 – 15252 – 32 St
Surrey BC V3S 0R7

Dear Mr. Krause:

**AGENCY REVIEW PROCESS EXTENSION RECOMMENDATION – BC FARM
INDUSTRY REVIEW BOARD APPROVAL**

On August 26, 2016 the BC Vegetable Marketing Commission (Commission) submitted a recommendation to the BC Farm Industry Review Board (BCFIRB) that the agency application deadline as part of the current “Supervisory Review of Regulated Vegetable Production on Vancouver Island” be extended.

BCFIRB previously prior approved the Commission’s agency application process on July 8, 2016¹. The process requires that all agency applications must be delivered to the Commission by September 2, 2016.

Commission Recommendation on Application Extension

The Commission received three requests from existing Vancouver Island agencies for an extension to the application deadline. Requests ranged from one to three months.

Commission considerations included limited agency staffing, the agency business priority to market fresh local product in season; whether the extension would impact on a grower’s ability to market product in 2017; the current appeal and judicial review; and, ensuring a fair opportunity for applicants to voice their opinions and comply with what is being asked of them in the agency application process.

¹ 2016, July 8. BCFIRB. BC Farm Industry Review Board Supervisory Decision – Agency Review Process and Criteria Approval.

For the reasons stated below the Commission recommended to BCFIRB that the agency application deadline be extended by 9 weeks to November 4, 2016.

The Commission is committed to ensuring that all Agencies have the opportunity to submit a high quality application that will be successful in meeting the minimum criteria and satisfy the criteria to be used by the Commission Panel in its review of the application.

The filing of the notice of appeal by VIP and the intent by IVCA to submit an application for a stay on the supervisory review's Agency Application Process diverts the attention of these Agencies away from the process and, because a decision on the stay is yet to be determined, also adds a degree of uncertainty to the successful completion of the review. The extension of the deadline will give the Commission and BCFIRB the time to promptly resolve these matters and not jeopardize the opportunity for these agencies to continue with the Agency Application Process and be successful at submitting an application that will qualify for review by the Commission Panel.

BCFIRB Decision

BCFIRB approves the Commission's recommended extension to the agency application deadline from September 2, 2016 to November 4, 2016.

A procedurally fair process allows for responsiveness to stakeholder concerns. Given the long-standing and important issues at hand and the concerns expressed by applicants regarding competing demands it is strategic and effective to provide an extension to the application deadline.

Closing

Several process and legal issues, including the agency application deadline, were raised by agency applicants in an appeal to BCFIRB and a judicial review petition of BCFIRB's June 15, 2016 and July 8, 2016 supervisory decisions approving the Commission's recommendations related to the agency application process. BCFIRB's view is that procedural fairness concerns (including allegations of bias) relating to the application process or its evaluation criteria and/or challenges to the legality of the application process are properly made before the Vegetable Commission as the first instance regulator of the vegetable industry.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per



John Les
Chair

cc: BCFIRB web site