

DELIVERED BY ELECTRONIC MAIL

June 11, 2019

To All Potato Producers and Designated Storage Crop Agencies,

RE: BULLETIN: Prokam/IVCA/TF Reconsideration - Invitation for Written Submissions

The Commission issued a bulletin in early March that communicated the Thomas Fresh, Prokam, IVCA decision issued by BCFRIB on February 29th, 2019. Since that time a panel has been struck and the Commission has been working diligently to address the matters described in the BCFIRB orders 1,2 and 4 through a written submission process.

At this time we are inviting potato producers and designated storage crop agencies to participate in the process with respect to providing written submissions in regards to order 48.1. Background information and details about the invitation and submission process are outlined below.

Please call the Commission general manager if you have any questions about this written submission process and what is being asked of you.

BACKGROUND INFORMATION

In a decision dated February 28, 2019, the BCFIRB made the following orders:

1. Commission orders 48.3 and 48.5 are referred back to the Commission to reconsider, with directions to consider all relevant facts and all relevant provisions of the General Orders, other than the asserted violation of the minimum pricing requirements in respect of the interprovincial sales.

48.3 – The Class 1 Producer Licence issued to Prokam is to be revoked and replaced with a Class 4 Licence. The Commission may choose to replace this licence with a Class 3 or Class 5 licence on review of the producer’s compliance with these orders.

48.5 - The Class 1 Wholesaler Licence issued to Thomas Fresh is to be revoked and replaced with a Class 4 Licence.

2. The Commission is directed to reconsider its decision to issue order 48.1.

48.1 - Effective February 1, 2018, BCfresh is the designated Agency for Prokam. Prokam is to sign a GMA with BCfresh under the Agency’s standard terms.

3. Prior to undertaking reconsideration pursuant to orders 1, 2 and 4, the Commission is directed to canvass the parties’ views on the question of whether any members of the Commission must recuse themselves from the discussions and deliberations concerning the reconsideration.

4. The Commission is directed to reconsider the question of whether any compliance or remedial action is necessary in relation to IVCA.
5. The Commission is directed to review its minimum pricing policy documentation to ensure that it is properly documented and integrated as appropriate with its General Orders.

The Commission has received and reflected on comments made by IVCA, Thomas Fresh and Prokam regarding the composition of the panel, and it has decided that the panel will consist of members: *John Newell, Eric Schlacht, Mike Reed and Brent Royal*.

The Commission also invited each of IVCA, Thomas Fresh and Prokam to make written submissions to the Commission regarding the matters to be reconsidered, namely:

- 1) Should the Class 1 Producer Licence previously issued to Prokam be revoked and replaced with a licence of another class?
- 2) Should the Class 1 Wholesaler Licence previously issued to Thomas Fresh be revoked and replaced with a licence of another class?
- 3) Should BCfresh be the designated Agency for Prokam, and should Prokam sign a GMA with BCfresh under the Agency's standard terms?
- 4) Should any compliance or remedial action be taken in relation to IVCA?

Written submissions have been received from each of IVCA, Thomas Fresh, and Prokam. Copies of all submission are available for review at the following link:

<https://www.dropbox.com/sh/53p6e3j0ul5vafw/AABOHuRzK9iuBdQeMuiyva3Na?dl=0>

INVITATION TO PARTICIPATE

It is the Panel's view that it ought to engage in further consultation with industry stakeholders (potato producers and agencies, in particular) with respect to the reconsideration of the Commission's decision to issue order **48.1**: *"Effective February 1, 2018, BCfresh is the designated Agency for Prokam. Prokam is to sign a GMA with BCfresh under the Agency's standard terms."*

The Commission is hereby inviting potato producers and designated agencies to make submissions **with respect to order 48.1**. Submissions must be made in writing, and they must be received by the Commission on or before Wednesday **July 10th, 2019**.

SUBMISSION PROCESS

Persons making submissions:

- 1) May address, among other things, any findings made by the BCFIRB concerning the Commission's decision to designate BCfresh as the agency for Prokam;
- 2) Are expected to specifically address, among other things, the Commission's analysis as set out in its written decision and reasons therefor dated December 22, 2017, and as set out its written decision dated January 30, 2018;

A copy of these BCVMC decisions can be found on the BCVMC website or at the following link:
<https://www.dropbox.com/sh/inr90ebuh87rz8a/AADRfblxJ4FrhAH0Z5HTHmRka?dl=0>

- 3) May also make submissions concerning the possibility of granting a producer-shipper license to Prokam; and
- 4) Are expected to specifically support their position with a S.A.F.E.T.I. analysis.

Link to background information on S.A.F.E.T.I. (strategic, Accountable, Fair, Effective, Transparent, Inclusive) principles:

<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals/bc-farm-industry-review-board/bcfirb-governance?keyword=S.A.F.E.T.I.>

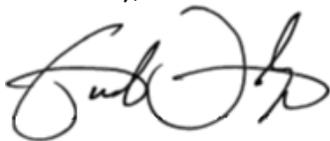
Submissions that are received by the Commission will be provided to Thomas Fresh, Prokam and IVCA so that each may have the opportunity to make a brief reply to the submission before the matter is tabled before the Panel for consideration.

All submissions are due Wednesday **July 10th, 2019**.

Thomas Fresh, Prokam and IVCA reply submissions will be due Friday **July 26th, 2019**.

Please call me if you have any questions. Thank you.

Yours truly,



Andre Solymosi
General Manager