

February 6th, 2025

CONSULTATION DRAFT

NATURAL PRODUCTS MARKETING ACT

WILD BLUEBERRY MARKETING PLAN REGULATIONS

On the recommendation of the Prince Edward Island Marketing Council and under the authority of subsections 4(2) and (3) and section 29 of the *Natural Products Marketing Act* R.S.P.E.I. 1988, Cap. N-3, Council made the following regulations:

PART 1- INTERPRETATION

1. (1) In these regulations and the Board orders made under them, Definitions
- (a) “Act” means the *Natural Products Marketing Act* R.S.P.E.I.1988, Cap. N-3; Act
- (b) “Appeals Tribunal” means the Natural Products Appeals Tribunal; Appeals Tribunal
- (c) “Association” means the Prince Edward Island Wild Blueberry Growers’ Association Inc.; Association
- (d) “Board” means the Prince Edward Island Wild Blueberry Marketing Board constituted under section 4; Board
- (e) “buyer” means a person who buys wild blueberries from a registered producer and who holds a valid and subsisting wild blueberry buying license issued by the Board; buyer
- (f) “Central District” means the area within the boundaries set out as the Central District in the Schedule to these regulations; Central District
- (g) “Council” means the Prince Edward Island Marketing Council; Council
- (h) “district” means the Western District, the Eastern District or the Central District; district
- (i) “Eastern District” means the area within the boundaries set out as the Eastern District in the Schedule to these regulations; Eastern District
- (j) “levy” means the levy imposed upon registered producers that is collected by buyers and remitted to the Board in accordance with section 38; levy
- (k) “license” means a license issued by the Board under these regulations; license

marketing	(l) “marketing” means the marketing and promotion of wild blueberries;
member	(m) “member” means a member of the Board who is elected or appointed, as the case may be, to represent a district;
member at large	(n) “member at large” means a member of the Board who is elected or appointed, as the case may be, to represent the registered producers in general;
person	(o) “person” includes any partnership, corporation, co-operative, syndicate or other business group formed or existing for the purpose of jointly acquiring or administering assets;
plan	(p) “plan” means the Prince Edward Island Wild Blueberry Marketing Plan established under subsection 3(1);
point of sale	(q) “point of sale” means the sale of wild blueberries from a registered producer to a buyer in accordance with these regulations;
processor	(r) “processor” means any person who purchases wild blueberries from a producer and who cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes such regulated products in any manner whatsoever;
producer	(s) “producer” means <ul style="list-style-type: none"> (i) any person that grows five or more acres of wild blueberries on land that it owns or leases in the regulated area; for greater certainty, a producer shall not include a processor unless the processor otherwise meets the definition of “producer” set out herein, and; (ii) a representative of a partnership, corporation, co-operative, syndicate or business group that produces five or more acres of wild blueberries;
register	(t) “register” means the register of wild blueberry producers established under section 9;
registered producer	(u) “registered producer” means a producer registered by the Board under section 9;
registration number	(v) “registration number” means the number assigned by the Board to a registered producer under subsection 9(2);
regulated area	(w) “regulated area” means the Province of Prince Edward Island;
regulated product	(x) “regulated product” means wild blueberries;
Western District	(y) “Western District” means the area within the boundaries set out as the Western District in the Schedule to these regulations;
wild blueberries	(z) “wild blueberries” means any type of low bush or wild blueberries (<i>Vaccinium Angustifolium</i> Aiton) that have not yet been processed in any form;

(2) The Board may define any term used in a Board order if the term is not defined in the Act or these regulations. Board definitions

2. Wild blueberries are designated as a regulated product. Blueberries, a regulated product

PART 2 - PRINCE EDWARD ISLAND WILD BLUEBERRY MARKETING PLAN

3. (1) There is established a plan to be known as the Prince Edward Island Wild Blueberry Marketing Plan. Establishment of plan

(2) The purpose and intent of the plan is to provide the Prince Edward Island Wild Blueberry Marketing Board with all the necessary powers and authority to Purpose of plan

(a) provide for the promotion, control and regulation in any or all respects of the production and marketing of wild blueberries within the regulated area, including the prohibition of production and marketing of wild blueberries, in whole or in part;

(b) act as an agent for, co-operate with or receive the delegation of powers from the Government of Canada to regulate the marketing of wild blueberries;

(c) provide for the control and regulation in any or all respects of the quality of wild blueberries in the regulated area; and

(d) fix levies or charges and to impose them on and collect them from persons engaged in the production of wild blueberries, in whole or in part.

(3) The monies raised by the levies authorized under these regulations shall be used for Levies

(a) the payment of the expenses of the Board;

(b) promotion and research activities; and

(c) administrative, advocacy and educational purposes.

PART 3 - PRINCE EDWARD ISLAND WILD BLUEBERRY MARKETING BOARD

4. (1) The commodity group known as the Prince Edward Island Wild Blueberry Growers' Association Inc., as established by Order in Council No. 2001-1 of August 10, 2001, is renamed and continued as the Prince Edward Island Wild Blueberry Marketing Board. Board continued

(2) The Board

(a) shall administer the levy; and Purposes

(b) shall represent and protect the interests of the province's producers at the provincial and national levels.

(3) The Board has all the powers contained in subsection 4(3) of the Act. Head office

Powers	5. (1) The Board shall maintain a head office in the province at a location designated by the Board.
Seal, signatures	(2) The Board shall adopt a common seal, the use of which shall be authenticated by the signature of the chairperson and secretary or other persons as the Board may authorize by resolution.
Rules of procedure	(3) The Board may make rules governing the calling and conduct of its meetings, the procedures for the transaction of its business and the management of its affairs.
Board policies	(4) The Board shall, after consultation with the province's registered producers, through at least one meeting per year in each district, create policies respecting the roles and responsibilities of the Board and its committees, including a process to be followed by the Board for responding to resolutions passed at annual or special meetings held by registered producers.
Fiscal year	6. (1) The fiscal year of the Board shall commence on January 1 of each year and end on December 31 of the same year.
Books of account	(2) The Board shall keep books of account, in accordance with generally accepted Canadian accounting principles, which shall be audited each fiscal year by an auditor approved by the Board.
Annual meeting	(3) The Board shall call an annual general meeting of registered producers, which shall be held within four months of the end of the Board's fiscal year.
Business	(4) The business of the annual general meeting shall include: <ul style="list-style-type: none"> (a) confirming the minutes of the last annual general meeting; (b) reviewing the Board approved accounts duly audited for the preceding year; (c) considering and dealing with any resolutions of which due notice has been given; (d) confirming the members of the Board elected or appointed by each district and at large; (e) appointing an auditor or auditors for the upcoming year; (f) confirming the amount of the levy for the upcoming year; (g) considering any other business or doing any other things that are required by these regulations.
Financial statement and report	(5) A copy of the audited financial statement accompanied by a report of the operations of the Board shall be presented to the Board within three months of the close of the fiscal year at a regularly scheduled meeting or a special meeting called by the chairperson to consider the report.
Statements	(6) Copies of the annual audited financial statement shall be presented to the registered producers at the annual meeting of registered producers.

7. The Board shall file with Council
- (a) a certified copy of the audited financial statement of the Board accompanied by the report of operations of the Board within four months of the close of the Board's fiscal year;
 - (b) a certified copy of all agendas, minutes, orders, appointments, agreements, awards, reports, resolutions and rules of the Board within seven business days of the Board's making or approval of them; and
 - (c) where the Board appoints an agent pursuant to section 41, the agent shall file with Council a certified copy of the audited financial statement and the annual report of the agent within four months of the close of the year of the agent.
- Filing of
information with
Council
8. (1) The Board may establish and maintain any committees the Board considers necessary to advise or assist the Board in its work.
- Committees
- (2) The Board
- (a) shall make appointments of members to committees for one-year terms; and
 - (b) may re-appoint members to the same or different committees.
- Appointments, term
- (3) Members of committees established under subsection (1) may be composed of Board members and any other person appointed by the Board.
- May include non-
members
- (4) The Board shall not delegate any of its powers to any committees established
- (a) by the Board;
 - (b) under the plan; or
 - (b) under these regulations.
- No delegation
- (5) Subject to the approval of Council, the Board may pay remuneration to members of the Board as a *per diem* allowance in the amount determined by the Board.
- Remuneration
- (6) The Board may reimburse its members for travel or other expenses that the Board considers to be properly incurred by them in connection with the business of the Board.
- Travel or other
expenses
- (7) The Board may, by resolution, award special remuneration to any member of the Board who undertakes any special services on behalf of the Board.
- Special
remuneration

PART 4 - REGISTER OF WILD BLUEBERRY PRODUCERS

9. (1) The Board shall establish and maintain a current register, by district, of registered producers who
- (a) are engaged in the growing of five or more acres of wild blueberries in the regulated area for gain; and
- Register

(b) are ordinarily resident or maintain a residence in the province.

Registration (2) The Board, on application, shall register a producer and assign a registration number to the producer where the producer establishes that the requirements of clauses (1)(a) and (b) have been met.

Transitional (3) Every producer who, immediately before this section comes into force, is a member of the Association, is deemed, on the date this section comes into force, to be a registered producer for a period of six months from the date this section comes into force, unless the producer ceases to be a registered producer under these regulations.

Designation of individual to act (4) A producer, other than a natural person, shall be registered in the corporate or firm name of the producer and all of the rights, privileges and responsibilities of the registered producer shall be exercised by an individual designated by the registered producer by notice in writing to the Board.

Updating register (5) The secretary of the Board shall update the register
(a) at least 90 days prior to any vote to be held under these regulations; and
(b) as often as the Board considers necessary.

Inspection of register (6) The Board shall make the register available for inspection by producers without charge during the normal business hours of the Board.

Removal from register (7) The Board may remove from the register the name of any producer by giving 30 days' notice in writing stating the grounds for removal and mailed to the last known address of the producer recorded in the register.

Appeal of removal from register (8) A producer may appeal the removal of its name from the register to the Appeals Tribunal and the producer's name shall remain on the register until the appeal is heard.

Appeals procedure (9) An appeal under subsection (8) shall be heard in accordance with the Appeals Procedure Regulations (EC142/86) made under the Act.

List of buyers **10.** The Board shall establish and maintain a current list of all licensed wild blueberry buyers engaged in the purchasing of wild blueberries from registered producers.

PART 5 - INITIAL COMPOSITION OF BOARD

Initial members of Board **11.** (1) Despite section 12, the initial members of the Board shall be the persons who are members of the board of directors of the Association on the date these regulations come into force.

Chairperson (2) The chairperson of the Association shall be the chairperson of the Board for the first meeting.

- (3) The first meeting of the Board shall be held within 30 days of the date these regulations come into force. First meeting of Board
- (4) At its first meeting the Board shall Officers, employees
- (a) elect from its members a vice-chairperson and a secretary of the Board; and
- (b) appoint a treasurer and other officers and employees as the Board considers necessary for a period not exceeding 15 months.
- (5) The Board shall 2022 election
- (a) call and publish notice of an annual general meeting for all members to be held within nine months of the coming into force of this section; and
- (b) conduct elections in accordance with these regulations before the annual general meeting.

PART 6 - ELECTIONS TO THE BOARD

- 12.** (1) For the purpose of this section, a registered producer is the owner of property in the regulated area on which five or more acres of wild blueberries are grown except where the property is rented to a tenant who grows and markets the wild blueberries on their own account, in which case the producer is the tenant, and Membership of Board
- (a) where the producer is a corporation, the person, if any, designated in writing in respect of that property by the corporation shall be deemed to be the producer;
- (b) where the producer is a firm or partnership or one or more persons carrying on the production and marketing under a trade name, farm name or other designation, the person, if any, designated in writing in respect of that property by the owner or owners shall be deemed to be the producer;
- (c) where the producer is comprised of two or more persons who are joint owners, the one of such joint owners who first presents himself to register the vote in respect of that property shall be deemed to be the producer.
- (2) The Board shall be composed of nine members, representing the registered producers in the province, as set out in subsection (2). Composition
- (3) The Board shall be composed of the following members, all of whom shall be registered producers, elected in accordance with these regulations, consisting of
- (a) two members who reside or are located in the Western District;
- (b) two members who reside or are located in the Eastern District;
- (c) two members who reside or are located in the Central District;
- (d) three members at large who represent all registered producers who reside or are located in the regulated area.

Term of office	13. (1) The members of the Board shall serve a term of up to three years and shall assume their office, duties and responsibilities as Board members at the first meeting of the Board following the annual general meeting.
Staggered terms	(2) Despite subsection (1), at the next election following the coming into force of this subsection, members of the Board may be elected for staggered terms determined by the Board.
Board executive	(3) At the first meeting of the first Board in 2022, the Board shall, from its members, (a) elect a chairperson and vice-chairperson; and (b) appoint a secretary and a treasurer, who may be the same person.
Term of executive	(4) The persons elected or appointed under subsection (3) shall hold office until (a) the next annual general meeting; or (b) they are replaced under section 22; or (c) they are no longer members of the Board, whichever occurs first.
Procedures	14. (1) The procedures for electing members of the Board shall provide for the elections to be conducted at a regular Board meeting by the casting of ballots in person or by mail-in ballot, as determined by the Board.
Eligibility for election	(2) To be eligible for election to the Board, a registered producer shall be eligible to vote and meet the classification requirements for the nomination.
Classification requirements	(3) For the purposes of this section, a registered producer meets the classification requirements for the nomination where the registered producer (a) is engaged in the growing of five or more acres of wild blueberries in the regulated area for gain; (b) is ordinarily resident or maintains a residence in the province; and (c) is a resident in the district where there is a vacancy on the Board for a member of a district or is a resident in the regulated area where there is a vacancy on the Board for a member at large.
Returning officer	15. (1) Where an election to the Board is to be held, the Board shall appoint a returning officer.
Duties	(2) The returning officer shall (a) not later than the second Saturday of January in each year in which an election is to be held, ensure that an election notice is (i) published in at least two daily or weekly newspapers in circulation in the district in which an election is being held or,

where an election is being held for a member at large, in the regulated area, or

(ii) mailed to each registered producer who is eligible to vote in the election at the most recent address provided by the registered producer to the Board; and

(b) advise that nomination forms shall be provided by the Board.

16. (1) A registered producer who seeks election to the Board shall be nominated and the registered producer's name submitted, either electronically or by regular mail, to a nominating committee established for this purpose. Nominations

(2) Nominations may be accepted by the nomination committee prior to a nomination meeting of the Board or from the floor at the nomination meeting. Acceptance

(3) Every registered producer submitting a nomination form shall ensure that the nomination form Nomination form

(a) is signed by at least three registered producers who are eligible to vote in the election to fill the vacancy; and

(b) is postmarked or received by the returning officer not later than January 31 of the election year.

(4) Acceptance of a nomination by the nominee shall be by notice in writing from the nominee to the returning officer and the notice shall accompany the nomination. Notice of acceptance

(5) If no nomination is received from a district for which an election is being held, the Council, on the advice of the Board, shall make an appointment to be in effect until the term of office for that position expires. No nomination received

(6) Where only one eligible registered producer is nominated to fill a vacancy, that registered producer shall be declared elected for the ensuing term by the returning officer at the conclusion of the election. Single nominee

(7) If more than one nomination is received from a district for which an election is being held, the returning officer shall conduct an election for the district by hand-delivered or mail-in ballots. More than one nomination

(8) For the purpose of conducting an election, those persons who are registered producers and reside in the district by or on the first day of January in each year, or who are registered producers and reside in the regulated area, shall be eligible to be nominated and run for Board office as well as vote in the election. Eligibility for office

17. (1) Where there is a vacancy on the Board for a member of a district, each registered producer residing or located in the district who is listed in the register is entitled to cast one vote in an election held to fill the vacancy. Vacancy on Board, member of district

Vacancy on Board, member at large	(2) Where there is a vacancy on the Board for a member at large, each registered producer residing or located in the regulated area who is listed in the register is entitled to cast one vote in an election held to fill the vacancy.
Ballot	18. (1) The returning officer shall cause to be mailed to eligible registered producers (a) a ballot which shall bear the name of each candidate nominated for election in the district or at large; (b) a ballot envelope; (c) a return addressed envelope; and (d) voting instructions.
Notice	(2) A registered producer shall be deemed to have received a ballot under subsection (1) which is addressed to the registered producer with postage prepaid at the last known address of the registered producer recorded in the register four business days after the returning officer mailed it.
Notice not received	(3) Failure by a registered producer to receive a mail-in ballot shall not invalidate any election.
Counterfoil	(4) Each ballot envelope shall have a counterfoil attached with the registered producer's name and registration number recorded on it.
Return of main-in ballots	(5) All ballots shall be returned by mail or hand-delivered, with the counterfoil attached, to the returning officer and shall be received by the returning officer or postmarked by a date to be determined at a meeting of the Board.
Scrutineer	(6) Each candidate in an election is entitled to appoint one scrutineer to represent the candidate at the opening and counting of the ballots.
Counting of ballots	(7) The returning officer shall set a date for counting the mail-in ballots for the election.
Witnesses	19. (1) The returning officer may appoint any persons necessary to witness the opening and counting of the mail-in ballots.
Council witness	(2) Council may appoint a witness to represent Council at the opening and counting of the mail-in ballots.
Validity	(3) The failure of a scrutineer or a person appointed under subsection (1) or (2) to witness the opening and counting of the mail-in ballots shall not invalidate an election.
Valid ballots	(4) Mail-in ballots shall only be counted where (a) the mail-in ballot is postmarked by a date to be determined by the Board;

- (b) the registered producer's name and registration number are recorded on the counterfoil; and
- (c) the counterfoil is removed by the returning officer before it is placed in the ballot box.

(5) Mail-in ballots shall be opened and counted by the returning officer in the presence of the persons appointed under subsection 18(6) and subsections (1) and (2). Counting

(6) A complete report of the results of the counting of the mail-in ballots, bearing the signatures of those present, shall be filed with the Board and with Council. Valid results

(7) The candidate receiving the greatest number of votes for each vacancy shall be declared elected by the returning officer. Declaration

(8) Where, upon the counting of the votes, two or more candidates for a vacancy on the Board have an equal number of votes and none can be declared the winner, the returning officer shall immediately Resolution of tied vote

- (a) write the names of those candidates on separate, identical blank sheets of paper;
- (b) fold the sheets of paper in an identical manner so that the names are concealed;
- (c) deposit the sheets of paper in a receptacle and withdraw a sheet to select the candidate to be elected; and
- (d) declare the candidate whose name appears on the sheet withdrawn to be elected.

20. (1) Each member of the Board shall assume office at the first meeting of the Board following the annual meeting of registered producers but in any event not later than April 30 in each year. Assumption of office

(2) A member of the Board who has served two consecutive full terms is not eligible for re-election until the expiry of at least one year after the completion of the member's last term. Consecutive terms

21. (1) The Board may declare vacant the office of any member of the Board who has been convicted of any offence under the Act or under the *Criminal Code* (Canada), has resigned or become ineligible, or who has failed to attend three consecutive meetings of the Board without reasonable cause. Office may be declared vacant

(2) The Board may declare vacant the office of any member of the Board who discontinues being a registered producer during the member's term. No longer registered producer

22. If no member is elected to the Board in accordance with these regulations or if an elected member becomes unwilling or unable to act, Council may appoint a registered producer from a district or a member at Council may appoint

large to fill the unexpired term of office of the member being replaced, or until the date of the next election.

PART 7 - DUTIES OF OFFICERS, EMPLOYEES OF BOARD

- First meeting **23.** (1) The Board shall, at the first meeting following the annual meeting of registered producers, elect from its members a chairperson and a vice-chairperson and shall appoint a secretary and a treasurer, who may be the same person.
- Officers, employees (2) The Board may also appoint any officers and employees the Board considers necessary to perform the duties specified by the Board.
- Appointments (3) All Board appointments of officers and employees shall be made by a Board motion and voted on, requiring a simple majority to pass.
- Duties, chairperson **24.** (1) The chairperson of the Board
 (a) shall call meetings and specify the date, time and location for the meetings;
 (b) shall chair all meetings at which the chairperson is present;
 (c) shall be a signing officer of the Board; and
 (d) may vote on motions and for the purpose of breaking a tie vote.
- Duties, vice-chairperson (2) The vice-chairperson of the Board shall perform all of the duties and functions of the chairperson
 (a) in the chairperson's absence;
 (b) where the chairperson's office is vacant; or
 (c) in the event of the chairperson's inability or refusal to act.
- Duties, secretary (3) Under the direction of the Board, the duties of the secretary of the Board are
 (a) to attend all meetings of the Board, take minutes of meetings and send a copy of the minutes to every member of the Board within 10 business days after the date of each meeting;
 (b) to conduct the correspondence of the Board;
 (c) to sign all orders of the Board;
 (d) to keep a record of
 (i) all business transactions of the Board,
 (ii) all orders, directions or determinations of the Board,
 (iii) all reports of committees that are established by the Board, and
 (iv) all annual statements, auditor's reports and annual reports;
 (e) to maintain at the head office of the Board true copies of all orders of the Board and to make them available for inspection by producers without charge during normal business hours of the Board;
 (f) to maintain a register of registered producers in which the secretary shall record the names of all registered producers;

- (g) to maintain a list of all buyers having a valid and subsisting wild blueberry buying license; and
- (h) to perform the other duties assigned from time to time by the Board.

- (4) Under the direction of the Board, the duties of the treasurer are
- (a) to provide for the deposit of money, the safekeeping of securities and the disbursement of funds of the Board;
 - (b) to keep full and accurate books of account in which shall be recorded all receipts and disbursements of the funds of the Board;
 - (c) to prepare reports showing the financial position of the Board as the Board may direct; and
 - (d) to perform the other duties assigned from time to time by the Board.
- Duties, treasurer

- 25.** Each member of the Board shall
- (a) attend the meetings of the Board;
 - (b) act in the best interests of the industry in the province; and
 - (c) subject to clause (b), represent the producers in the member's district or, if the member is a member at large, the producers in the regulated area.
- Members

- 26.** (1) The powers and duties of an officer of the Board may be exercised and performed by an assistant to the officer who is appointed by the Board.
- Assistant to Board officer

- (2) The Board may add to or limit the powers and duties of an officer of the Board or the officer's assistant.
- Board may add to or limit powers and

- (3) Except as provided in subsection 20(2), every member or official of the Board shall hold office until a replacement is elected or appointed, as the case may be.
- duties
Tenure

PART 8 - MEETINGS OF BOARD

- 27.** The annual meeting of the Board for the purpose of electing members and appointing officers to the Board shall be held during the first meeting of the Board immediately following the annual meeting of registered producers but in any event not later than April 30 in each year.
- Annual meeting

- 28.** (1) The chairperson of the Board shall call meetings of the Board by directing the secretary to give 10 business days' notice of the meeting to the members of the Board.
- Meetings called by chairperson

- (2) Unless otherwise stated in the notice calling the meeting, meetings of the Board shall be held at the head office.
- Location

- (3) Notice of a meeting under subsection (1)
- (a) shall include the date, time and location of the meeting; and
- Notice of meeting

(b) may be given verbally or by mail, fax, email, instant message text or any form approved by the Board to each of the members of the Board.

Notice may be waived

(4) The members of the Board may waive a notice of meeting either before or after the meeting is held.

(5) Notice by mail, email or instant message text shall be Deemed receipt of mailed notice

(a) sent to the member's latest known address or number as recorded in the books of the Board; and

(b) deemed to be received by the member four business days after the date of mailing or sending.

(6) A simple majority of the members of the Board Quorum constitutes a quorum of the Board for the transaction of business.

Majority vote

(7) All questions arising at a meeting of the Board shall be decided by a simple majority of votes of the members present.

Chair's and vice-chair's absence

(8) Where the chairperson and vice-chairperson are absent from a meeting, the Board may elect a chairperson for the purpose of that meeting from among the members present.

Secretary's absence

(9) Where the secretary is absent from a meeting, the Board may appoint a secretary for the purpose of that meeting from among the members present.

Board may make rules

(10) The Board may make rules governing the calling and conduct of meetings, the procedures for the transaction of its business and matters of management.

Special meeting

29. (1) Where the Board receives a petition or request signed by at least 10 per cent of the registered producers requesting that a special meeting of registered producers be held for the discussion of matters respecting the application of the plan, these regulations or of the operation of the Board, the Board shall give notice of a special meeting to registered producers within 30 days of the receipt of the petition or request.

Contents of notice

(2) A notice of a special meeting given under subsection (1) shall

(a) include a statement of the matters to be discussed; and

(b) be mailed, emailed or published in a newspaper in circulation in the province at least 10 business days prior to the date of the meeting.

Meeting restricted to matters in notice

(3) The Board shall allow only those matters contained in the notice under subsection (2) to be brought before the meeting.

Board not bound by meeting

(4) The Board shall not be bound by a decision arising from a special meeting of registered producers under this section.

PART 9 - FINANCE

- 30.** (1) The following orders issued by the Board shall state the purpose for using the money or incurring the debt or liability respecting
- (a) the borrowing of money on the credit of the Board;
 - (b) the issuing, selling or pledging securities of the Board;
 - (c) the charging, mortgaging, hypothecating or pledging all or any of the real or personal property of the Board, including book debts and unpaid calls, rights, powers, franchises and undertakings; or
 - (d) the negotiating for any securities or any money borrowed, or other debt, or any other obligation or liability of the Board.
- (2) An order referred to in subsection (1) is not effective unless
- (a) the order is passed at a meeting of the Board called for the purpose of considering the order; and
 - (b) not less than two-thirds of the total Board members are present and vote in favour of the order.
- 31.** (1) The Board may require the treasurer and any other officers or employees of the Board that the Board considers advisable to provide a bond
- (a) in the form and with the security approved by the Board; and
 - (b) for the faithful discharge of the duties of treasurer, officer or employee of the Board.
- (2) The Board shall pay the cost of any bond required under subsection (1).
- 32.** The Board shall not invest any surplus funds of the Board other than in investment certificates of a chartered bank, trust company, credit union, or the provincial or federal government.

PART 10 - GENERAL

- 33.** Despite any defect or irregularity in the appointment, election or qualifications of any Board member, the actions of the Board are as valid as if the Board and every member were duly qualified and had been duly elected or appointed, as the case may be.
- 34.** No action shall be brought against any person who acts or purports to act in good faith under the authority of the Act, these regulations or a Board order.
- 35.** Every member or officer of the Board and the member's or officer's heirs, executors, administrators and assigns shall be indemnified and saved harmless out of the funds of the Board from and against
- (a) all costs, charges and expenses whatsoever that the member or officer sustains or incurs in or about any action, suit or proceeding brought, commenced or prosecuted against the member or officer,

for or in respect of any act, deed, matter or thing made, done or permitted by the member or officer, in or about the execution of the duties of the member's or officer's office; and

(b) all other costs, charges and expenses which the member or officer sustains or incurs in or about or in relation to the affairs of the member or officer, except the costs, charges or expenses as are occasioned by the member's or officer's own wilful neglect or default.

Conflict **36.** Every member of the Board is obligated to disclose any interest in an individual or company doing business with the Board and no member shall participate in a discussion or vote in respect of a proposed or existing contract or grant between the Board and a company of which the member is a director, member, officer or shareholder.

Oath of Office **37.** (1) A member-elect shall not be confirmed as a member of the Board until the member-elect takes the member's oath of office, as follows:
I,, of, Province of Prince Edward Island, do solemnly swear [*or* affirm] that I will faithfully, truly and to the best of my judgment, skill, knowledge and ability execute and perform the duties required as a member of the Prince Edward Island Wild Blueberry Marketing Board that properly relates to my duties as a member of the Board. I further solemnly swear [*or* affirm] that I will not communicate or allow to be communicated to any person not legally entitled thereto any and all information related to the Board, nor will I, without due authority, allow any person to inspect or have access to any books or documents belonging to or in the possession of the Board in relation to the operations of the Board.

Oath retained by Board (2) The member's oath of office shall be signed, confirmed and retained by the secretary with the other books and records of the Board.

Conflict document retained by Board (3) A conflict-of-interest document supplied by Council shall be signed by Board members and retained by the Board.

PART 11 - LEVY

Payment of levy **38.** (1) Every registered producer shall pay, on each pound of wild blueberries sold to a buyer at the point of sale, a levy at an amount agreed to at the annual meeting of registered producers or as a result of a levy meeting held pursuant to section 39.

Collection, etc. of levy (2) Buyers shall collect the levy at the point of sale and remit the levy to the Board within 90 days of collecting the levy from registered producers.

Enforcement

(3) The Board shall exercise its powers set out in section 41 as necessary to ensure that the levy is calculated, paid, collected and remitted to the Board.

(4) No buyer shall impose a fee or charge of any kind on registered producers for the purpose of defraying the administrative cost of calculating, collecting and remitting the levy to the Board. Prohibition

(5) On the day this section comes into force, the levy of \$0.008 cents per pound of wild blueberries collected by the Association immediately preceding the coming into force of this section, is deemed to remain in effect until a new levy is established by the Board pursuant to section 41. Transitional

39. (1) Where two-thirds of the members of the Board vote in favour of holding a levy meeting of registered producers to consider changes to the amount of the levy, the Board shall give notice of the meeting to all registered producers in accordance with this section. Levy meeting

(2) The notice to be given by the Board under subsection (1) in respect of a levy meeting Notice

- (a) shall be provided to the registered producers of each district not less than 90 days prior to the date of the levy meeting;
- (b) shall set out the proposed changes to the levy amount;
- (c) shall state that no other business shall be considered at the levy meeting; and
- (d) shall be published in two daily and weekly newspapers in circulation in the province not less than 30 days prior to the date of the levy meeting.

(3) The Board shall allow only the proposed changes to the levy amount contained in the notice given under subsection (1) to be brought before the levy meeting. Meeting restricted to matters in notice

(4) All registered producers shall be entitled to attend and vote at the levy meeting, either in person or by way of a mail-in ballot, as determined by the Board. Voting

(5) The levy amount shall be changed only where two-thirds of the registered producers voting at the levy meeting vote in favour of the change. Board is bound by vote

40. No registered producer shall sell wild blueberries to a buyer and no buyer shall purchase wild blueberries from a registered producer in any manner contrary to the Act, these regulations or Board orders. Prohibition

PART 12 - BOARD POWERS

41. (1) The Lieutenant Governor in Council hereby vests in the Board the powers necessary to enable the Board to make orders in respect of the following: Power to make orders

- (a) to require registered producers to pay to every buyer an amount fixed by way of levy or charge, and to collect the levy or charge from every buyer through a check-off system requiring buyers to remit to the Board the amount of the levy or charge collected, and to recover the levy or charge in a court of competent jurisdiction;
- (b) to regulate the time and place at which, and to designate the agency or sub-agency through which the regulated product is to be marketed;
- (c) to determine the manner of distribution, the quantity and quality and grade of the regulated product that is to be marketed;
- (d) to prohibit any aspect of the marketing of any grade of the regulated product;
- (e) to determine the charges that may be made for the Board's services by any designated agency;
- (f) to exempt from any determination or order any person or class of persons engaged in the growing, harvesting or selling of, or any aspect of the marketing of, the regulated product;
- (g) to require any or all registered producers, as defined in these regulations, to register with the Board;
- (h) to establish levy fees from any or all persons engaged in the growing, harvesting or selling of the regulated product;
- (i) to fix and collect from buyers the levy fees yearly, half yearly, or quarterly, that have been received by the buyer at the point of sale of the regulated product;
- (j) to recover levies by suit in any court of competent jurisdiction;
- (k) to negotiate and collect fees and levies for services rendered or to be rendered by the Board;
- (l) to negotiate price or prices, minimum price or prices, at which the regulated product, or any grade of it, may be bought or sold in the regulated area, or that shall be paid for the regulated product by a designated agency;
- (m) to fix and collect yearly, half yearly, quarterly or monthly license fees from any or all persons engaged in the production of, or any aspect of the marketing of, the regulated product, and for this purpose to classify those persons into groups and fix the license fees payable by the members of the different groups and to fix and collect from those persons fees and levies for services rendered or to be rendered by the board;
- (n) to suspend or revoke at any time any buyer's license or producer's license issued under these regulations;
- (o) to impose penalties on any persons as provided by regulation for violation of any determination or order under the Act or these regulations;
- (p) to require full information relating to the purchase of the regulated product by a buyer from a registered producer;
- (q) to require periodic returns to be made by buyers;

- (r) to inspect the books of buyers, as needed, in order for the Board to administer and collect the levy;
- (s) to conduct, or to authorize any marketing agency or sub-agency appointed under the plan to conduct an intraprovincial or interprovincial pool or pools for the distribution of all proceeds received from the sale of the regulated product and requiring the marketing agency to distribute the proceeds of sale, after deducting all necessary and proper disbursements, expenses and charges, in a manner that each person receives a share of the total proceeds in relation to the amount, variety, size, grade and class of the regulated product delivered by the person and to make payments in respect of it until the total net proceeds are distributed;
- (t) to acquire, possess, purchase and sell the regulated product;
- (u) to purchase, take on lease or in exchange, or otherwise acquire assets or real property for the purposes of its business and to sell or otherwise dispose of assets or mortgage real property acquired by the Board;
- (v) to borrow, raise or secure the payment of money in any manner that the Board thinks fit for the purpose of carrying out the objects of the plan;
- (w) to draw, make, accept, endorse, execute, issue, hypothecate, or assign promissory notes, bills of exchange and other negotiable or transferable instruments;
- (x) to take, or otherwise acquire and hold, shares, debentures or other securities of any company having objects altogether or in part similar to those of the Board, or carrying on any business capable of being conducted so as, directly or indirectly, to benefit registered producers, and to sell or otherwise deal with the regulated product;
- (y) to use in carrying out the marketing of the regulated product and paying the expenses of the Board any money received by the Board;
- (z) to delegate its powers to any agent or employee authorized by the Board for the proper operation of the plan under which the Board is constituted, provided that this clause shall not permit the delegation by the Board of the powers contained in clauses (1)(g) and (aa);
- (aa) to terminate the Board and distribute any held levy proceeds equally to all registered producers after paying out any outstanding debts, dues, accounts or expenses of any kind, accrued or owing by the Board at the date of termination;
- (bb) to make recommendations to the Government for any necessary and approved amendments to the regulations;
- (cc) to authorize a registered producer to remit the amount of the levy directly to the Board if the registered producer is selling the regulated product directly to a member of the public;
- (dd) to change the amount of the levy in accordance with the process set out in section 39;
- (ee) to detain or seize, and dispose or any of the regulated product marketed in violation of any order of the board;

- (ff) to require the person in charge of any vehicle to permit any agent or employee authorized by the board to search the vehicle;
- (gg) to investigate and arbitrate any dispute arising from the sale of any natural product between registered producers, shippers, transporters and distributors;
- (hh) to require proof of financial responsibility by any person engaged in the marketing of the regulated product;
- (ii) to make orders, rules and policies affecting the production or marketing of the regulated product.

Where plebiscite
required

(2) The Board shall not exercise the powers contained in clause (1)(aa) unless Council has conducted a plebiscite of registered producers in which the majority of registered producers who voted indicate their support for the Board exercising these powers.

Adoption of
Schedule

42. The Schedule to these regulations is hereby adopted and forms part of these regulations.

Commencement

43. These regulations come into force on.....

SCHEDULE

Western District

Shall be bound as follows: consisting of that portion of the province that is situated from Summerside West, using Central Street from the Summerside Harbour and extending along the line of Central Street to Malpeque Bay.

Eastern District

Shall be bound as follows: consisting of that portion of the province that is situated from Summerside running North to Route 2 then along Route 3 extending from Summerside running through Charlottetown and then along to Georgetown ending at Georgetown.

Central District

Shall be bound as follows: consisting of that portion of the province that is situated from Summerside running South to Route 2 then along Route 3 extending from Summerside running through Charlottetown and then along to Georgetown ending at Georgetown.