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# **Egg Farmers of Ontario Policies, Programs & Procedures 2011**

## **SECTION 9: Hearings & Appeals**



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## **Board Hearings/Special Presentations**

The difference between Board Hearings and Special Presentations:

- EFO Staff does not have the authority to change Egg Farmers of Ontario [Board] Policies or Regulations. Consequently, it is up to the Directors to decide Board Policy matters.
- A Board Hearing generally involves possible disciplinary action: i.e. a producer over quota or in contravention of EFO's Policies or Regulations.
- A Special Presentation allows a producer to request special individual consideration of the Board's Policies or Regulations to any particular matter that appears to contravene EFO's Policies. The request will be reviewed by the Board of Directors who will render a decision.
- A producer can be asked to appear before the Board at a Hearing, and the Board can make a decision, concerning the producer. If the producer chooses not to participate, the Board may proceed in the producer's absence and the producer will not be entitled to any further notice in the proceedings.



## Summary of Hearing Procedures

EFO Hearings are conducted under the *Farm Products Marketing Act* (Ontario) and in accordance with the *Statutory Powers Procedure Act* (Ontario). Typically, producers appear in person at Hearings; however, the Board will permit an agent or lawyer to appear with proper written authorization.

The Board does not require witnesses to be sworn.

The Hearing procedure is normally as follows:

After introduction, the Board will determine whether the parties have any preliminary matters to be determined. The Notice of Hearing will then be read followed by a presentation by the Board staff of testimony and relevant documentation. The producer will be given an opportunity to question Board staff on the presentation, followed by questions of the Board staff from directors themselves.

The producer will then be given an opportunity to make a presentation, which is followed by questions of the producer by Board staff and by directors. Producers should bring 15 copies of all documents that they wish to present to the Board as part of their presentation.

Following the presentation of all evidence, the Board may excuse all witnesses to the Hearing and take a brief caucus in order to determine if it has all pertinent information before it for purposes of making a decision. The parties will then rejoin the Hearing and be given an opportunity to make a brief closing statement.

The Board attempts to make its decisions as soon as possible following the completion of a Hearing and the producer will be advised of the decision by letter. Reasons for the Board's decision are available upon request.

Reconsideration Hearings are conducted in the same manner as Hearings; however, since the purpose is reconsideration, the producer, individual or processor will be expected to present new evidence and arguments in order to cause the Board to change its initial decision.

Hearings for processors and other persons appearing before the Board will generally follow the procedure described above.

Any questions regarding the Hearing procedure should be directed to EFO General Manager, Harry Pelissero, at EFO's Board office 1-800-387-8360.



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## Appeal Procedures

Note: Requests to conduct transactions that appear to contravene the intent of EFO's Policies will be reviewed by the Board of Directors and may be denied. Producers must remain solely responsible for taking whatever steps they deem appropriate to acquire insurance, specifically disaster coverage, in the event of a S.e. or A.I. infection in the flock environment.

### **REQUESTS FOR SPECIAL CONSIDERATION:**

If an egg and/or pullet producer requires special consideration for relief from an EFO Policy, the circumstances should be reported in writing to the Board office. All of the pertinent details as to why special consideration has been requested must be contained in the letter.

EFO's Board of Directors will consider requests at their [next] Board meeting and in turn reach a decision on the matter. The producer will subsequently be advised in writing.

### **REQUESTS FOR RECONSIDERATION OF A BOARD DECISION – HEARING:**

If a producer is not satisfied with an EFO Board decision, the producer should advise the Board office in writing of their wish to 'appeal' an EFO Board decision. Requests should be brought forward within 90 days of the Board's original decision.

EFO Hearings are conducted under the Farm Products Marketing Act [Ontario] and in accordance with the Statutory Powers Procedure Act [Ontario]. Typically, producers appear in person at Hearings; however, the Board will permit an agent or lawyer to appear with proper written authorization.

If the producer or a representative of said producer does not attend at the Hearing, Egg Farmers of Ontario may proceed in their absence and the said producer will not be entitled to any further notice in the proceedings.

The order of presentation at most Hearings is as follows:

- The Chair is turned over to EFO's Solicitor who outlines the procedures to be followed for the Hearing.
- The Notice of Hearing will then be read followed by a presentation by the Board staff of testimony and relevant documentation.
- The producer presents his or her case to EFO's Board of Directors first. The producer chooses the manner of presentation of his or her case. This could involve: reading a written presentation, presenting verbal evidence, and the presentation of documents. The producer may wish to outline briefly the matters to be considered by the Board at the beginning of the presentation. Producers may have someone else act as their spokesperson if they wish (i.e. lawyer, accountant or other advisers). The object of the producer's presentation is to present all of the relevant facts to his or her case.



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## **APPEAL PROCEDURES CONTINUED**

- The producer will be given an opportunity to question Board staff on the presentation, followed by questions of the Board staff from directors themselves.
- The Board will have the opportunity to question the producer, and any witnesses who testify on behalf of the producer.
- Following the presentation of evidence, the producer will be given an opportunity to sum up their appeal before the conclusion of the Hearing.
- When the Hearing is complete the parties leave and the Board deliberates the evidence and makes its decision. A written decision is sent to the parties, usually within 20 days of completing the hearing.

Producers should bring 15 copies of all documents that they wish to present to the Board as part of their presentation.

The Board attempts to make its decisions as soon as possible following the completion of a Hearing and the producer will be advised of the decision by letter. Reasons for the Board's decision are available upon request.

### **RECONSIDERATION HEARINGS:**

Reconsideration Hearings are conducted in the same manner as Hearings; however, since the purpose is reconsideration, the producer, individual or processor will be expected to present new evidence and arguments in order to cause the Board to change its initial decision.

Hearings for processors and other persons appearing before the Board will generally follow the procedure described above.

### **REQUEST TO THE AGRICULTURE, FOOD & RURAL AFFAIRS [AFRA] APPEAL TRIBUNAL:**

Producers have the right to appeal an EFO Board Hearing decision, to the AFRA, 1 Stone Road West, Guelph, Ontario N1G 4Y2. Telephone 519-826-3433 or 1-888-466-2372. Fax 519 826-4232.

Any questions regarding EFO's Hearing procedure should be directed to EFO General Manager, Harry Pelissero, at EFO's Board office 1-800-387-8360.