

December 7, 2018

**DELIVERED BY E-MAIL**

**BCVMC NOTICE**  
**Amending Order No.46 REV.3**  
**Part IV – LICENCING**  
**New Packinghouse Category**

**INTRODUCTION OF INDUSTRY CONSULTATION PROCESS**

**Written Submissions Due: [Monday, January 14<sup>th</sup>, 2019](#)**

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To all Producers, Agencies, and Wholesalers:

On May 25<sup>th</sup>, 2018 the Commission introduced a new packinghouse licence category to all producers and agencies. The Order is a result of the Commission's effort to provide greater transparency on components of the orderly marketing system and delineate clear lines of authority over each function. This license category is managed by an agency and is part of the agency licensing process. Notification was sent to producers and agencies announcing the new category. No notice of the packinghouse licence category was issued to wholesalers since it should have no impact on a wholesaler's business within the regulatory framework governing the marketing of British Columbia vegetables.

***The Packinghouse Licence Category***

This category is to be managed by an agency / producer-shipper and is part of the agency / producer-shipper licensing process.

Agency designated producers are required to ship all regulated product through an authorized packinghouse that is licensed by their designated agency. The agency has full authority over the management of all regulated product shipped through the licensed packinghouse. A producer-shipper is required to ship all regulated product through its licensed packinghouse.

Product that is exempt from having to be marketed by an agency is therefore not required to be shipped to a licensed packinghouse. This exemption currently applies to the group of regulated organic storage crop vegetables with the exception of organic potatoes. All organic potatoes are marketed under the direction of the Fraser Land Organics Agency and therefore need to be shipped through a packinghouse licensed by Fraser Land Organics.

## **PURPOSE**

- Enhance Orderly Marketing of regulated vegetables through the licensing of a packinghouse.

## **OBJECTIVES**

- Transparency in packing operations available to producers.
- Ensure compliance to food safety standards acceptable by the Industry.
- Clarity of agency authority over regulated product handled by the licensed packinghouse.

## **PACKINGHOUSE POLICY**

- All regulated product put through the packinghouse is controlled by the designated agency / producer-shipper. The licensing of a packinghouse is to be completed by the designated agency / producer-shipper. The agency licence / renewal application form includes a section that lists all packinghouses under the agency's / producer-shipper's authority where raw product can be processed for sale.
- As part of the agency / producer-shipper licensing process, the applicant is responsible for:
  - (a) Payment of each packinghouse license fee; (There is no fee attached to a Class 1 licence)
  - (b) Ensuring the packinghouse is food safe certified in compliance with BCVMC policy;
  - (c) Overseeing all regulated product handled through each of their licensed packinghouses;
  - (d) Ensuring that all regulated product grown by their group of producers is processed through a packinghouse licensed by the agency;
  - (e) Packinghouse compliance to the General Order and Policy.
- The packinghouse licence is issued separate from the agency / producer-shipper licence and states the agency / producer-shipper under which the entity is authorized to operate.
- A wholesaler cannot be licensed as a packinghouse unless authorized by Order of the Commission.

### ***Appeals Filed on Amending Order No.46***

With the introduction of Amending Order 46, the Commission received a notice of appeal from three entities that are licensed by the Commission. One appeal was filed by a wholesaler that also operates as a re-packer of storage crop vegetables. The remaining two appeals were filed by one producer and a producer-shipper of storage crop vegetables.

Further consultation was held with these appellants to try and resolve the concerns they had with the Order. Key concerns and requests that were brought up in discussions included:

1. Protection of the producer from the agency. What if an agency does not want to use the producer's packinghouse facility? We don't want the agency to tell a producer that the producer cannot use their own facility to pack their own product.

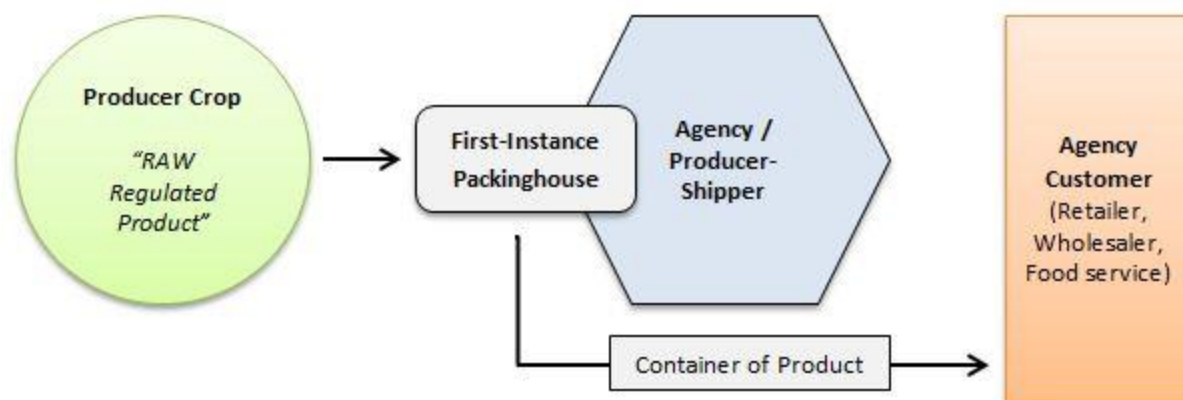
2. We want clear authority criteria of the agency over the packinghouse facility and are concerned with the increased authority the BCVMC is giving to agencies.
3. Clarity on food safety standard being compliant to the legal standard set by the CFIA.
4. A letter from the Commission that a wholesaler does not need a packinghouse licence.
5. That agency grower marketing agreements are eliminating the producer's right to protect their interests and their ability to voice these concerns to the Commission.

In discussions it was clarified that the underlying intent of this order is to licence packinghouses that are used by a producer or a group of producers to process the raw product harvested from the field or greenhouse into a container for marketing by their designated agency. It is not intended to have any impact on a wholesaler's operations. Wholesalers are required to purchase regulated vegetables in a container from an agency. A wholesaler can receive product from a packinghouse under the direction of the authorized agency. Therefore, if a wholesaler has a packing line that is part of its operations, this facility is not required to be licensed as a packinghouse unless it wishes to receive "*raw regulated product*" directly from a field / greenhouse.

Orderly marketing of regulated BC grown vegetables requires that:

- i. Producers are licensed to produce regulated product;
- ii. Raw regulated product is delivered from the field to a licensed packinghouse for the purpose of washing, sorting, grading, sizing, or packing directly into a container for sale;
- iii. Agencies are licensed to represent groups of producers in the market place. A producer-shipper is licensed to ship product to a market approved by the Commission. The marketplace is composed of retailers, wholesalers and food service participants. Both the agency and producer-shipper are responsible for promotion and selling (Marketing) the regulated product. They are delegated this responsibility by the Commission;
- iv. Certificates of authority are granted to a producer-shipper and agency personnel to allow them to issue transport orders that direct the movement of product;
- v. A wholesaler is a customer of an agency or a producer-shipper and is licensed so that it may procure regulated product from an agency or a producer-shipper.

Figure 1: Product Flow Chart



If a wholesaler desires to receive “raw regulated product”, it will need permission by Order of the Commission. The wholesaler would need to apply for an exemption that would permit the wholesaler to be licensed as a packinghouse under the authority of an agency / producer-shipper.

### **Amending Order No.46 Rev.3**

A copy of Amending Order No.46 Rev.3 is found in Appendix A. We have made some adjustments to *Amending Order No.46* that address the appellant’s concerns without conceding on the purpose and objectives of what the order is to accomplish. These changes are summarized as follows:

1. The definition of a packinghouse has been changed to:

*“First-Instance Packinghouse” means a person who operates a facility where Raw Regulated Product is delivered for the purpose of washing, sorting, grading, sizing, or packing directly into a container for sale, but does not include an Agency or a Producer Shipper with such facilities.*

*We added a definition of the product that is being regulated as follows:*

*“Raw Regulated Product” means regulated product that has not yet been washed, sorted, graded, sized or packed directly into a container for sale*

So product is considered “**Raw Regulated Product**” if it has not yet been washed or sorted or graded or sized or packed directly into a container.

2. If a wholesaler with a packing operation wants to be able to receive a *Raw Regulated Product* from an agency it will need to be licensed as a *First-Instance Packinghouse* and this will require an assigned or designated agency and an Order by the Commission.

*A wholesaler cannot be licensed as a First-Instance Packinghouse for an assigned or designated agency, unless authorized by Order of the Commission.*

3. Regarding the concern that the producer needs to be protected from the agency, we have added the following:

*7. The First-Instance Packinghouse licence is handled as part of the agency / producer-shipper licensing process, as the case may be. Where an agency applies for a packing-house licence, the grower marketing agreement (GMA) between a producer and an agency is to assign a packinghouse to the producer.*

4. Wording under PART IV LICENSING that addresses the food safety concern was added:

*c) The person is compliant with all applicable CFIA standards and food safety requirements ...*

The above adjustments represent the final changes made to the first revision of the original amending Order No. 46. *Amending Order No 46 REV.3* is to be the only version you are asked to review for submitting comment, concerns and recommended changes back to the Commission through this consultative process. Refer to the section titled '**Consultation Process and How to Participate**' for guidance on your submissions and the due date.

### **S.A.F.E.T.I. PRINCIPLE**

The introduction of Amending Order No. 46 satisfies the S.A.F.E.T.I. principles that are a foundation of the BCFIRB accountability framework and guide decision making by the Commission. Commissioners are committed to be pro-active risk managers and applying principles based decision making to achieve responsive governance. The decision to implement Amending Order No. 46 and Rev.3 was determined to be in the best interest of sound, orderly marketing within British Columbia and reflects a principle based approach to regulation. The decision is validated for the following reasons:

<b>STRATEGIC</b>	<ul style="list-style-type: none"><li>• Recognizes a packinghouse as a distinct entity from a producer and allows for the licensing of this entity. The Commission recognized that there was an opportunity to be pro-active to address the licensing gap.</li><li>• Agencies / Producer-Shipper are an extension of the Commission and are granted authority by the Commission to market regulated product. The packinghouse licence clearly identifies control over "raw regulated product" and the fundamental responsibility expected of an agency / producer-shipper under the authority granted to it.</li></ul>
<b>ACCOUNTABLE</b>	<ul style="list-style-type: none"><li>• It is expected that the Commission act in the best interests of stakeholders and develop clear policy that enhances Orderly Marketing. The implementation of a packinghouse license category provides clarity over a fundamental component of orderly marketing.</li><li>• It defines the agency as being accountable for the regulated product being put through a packinghouse and therefore builds stronger agencies by adding clarity of their responsibilities.</li></ul>

<b>FAIR</b>	<ul style="list-style-type: none"> <li>• Clear authority over this component of the Orderly Marketing system is fair to both producers and agencies. Grower marketing agreements are used to further define the terms on how product is to be handled from a producer's field and into a container that is to be marketed by an agency.</li> <li>• The Commission is responsive to concerns brought forward and has drafted Amending Order No.46 Rev.3 that would implement adjustments to the Order without conceding on its purpose and objectives.</li> </ul>
<b>EFFECTIVE</b>	<ul style="list-style-type: none"> <li>• Transparency in packing operations available to producers.</li> <li>• Ensure compliance to food safety standards acceptable by the Industry.</li> <li>• Clarity of agency authority over regulated product handled by the licensed packinghouse.</li> </ul>
<b>TRANSPARENT</b>	<ul style="list-style-type: none"> <li>• A notice was sent out to producers and agencies that announced amending order No. 46. The notice explained the purpose, objectives and policy being implemented.</li> <li>• The Commission was responsive to feedback filed through the appeal process and held consultation with these stakeholders.</li> <li>• As a follow-up, Amending Order Rev.3 was drafted and is now being circulated with all licensed participants of the regulated vegetable industry for feedback.</li> </ul>
<b>INCLUSIVE</b>	<ul style="list-style-type: none"> <li>• The Commission is launching this consultation process on <i>Amending Order No.46 Rev.3</i> to ensure all stakeholders understand its intent and to validate if additional clarification needs to be added.</li> </ul>

### ***Consultation Process and How to Participate***

All stakeholders in the regulatory framework governing the marketing of BC regulated vegetables are invited to provide written feedback on *Amending Order No.46 Rev.3*.

The Commission expects that your submission will also include a S.A.F.E.T.I. principal based analysis that supports your arguments and explains how your position supports or enhances the orderly marketing of BC regulated vegetables.

All submissions must be received by the Commission by **Monday January 14<sup>th</sup>, 2019**. Please feel free to give me a call or send me an e-mail if you have any questions.

Yours truly,



Andre Solymosi, General Manager

## APPENDIX A

# B. C. Vegetable Marketing Commission

AMENDING ORDER # 46 **REV.3**

TO THE  
THE BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION  
GENERAL ORDER OF MARCH 16, 2005, AS AMENDED

MADE BY THE  
BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION

**DRAFT**

The British Columbia Vegetable Marketing Commission General Order of March 16, 2005, as amended, is further amended with the Marketing Commission orders as follows:

1. Section 5 – Interpretation – of **PART I INTRODUCTORY** – of the General Order is amended to include the following definitions:

*“First-Instance Packinghouse” means a person who operates a facility where Raw Regulated Product is delivered for the purpose of washing, sorting, grading, sizing, or packing directly into a container for sale, but does not include an Agency or a Producer Shipper with such facilities.*

*“Raw Regulated Product” means regulated product that has not yet been washed, sorted, graded, sized or packed directly into a container for sale*

2. **PART IV LICENSING** of the General Order be amended to include a new licence category titled Licences – First-Instance Packinghouse and sections 1 through 4 as follows:

*Licences – First-Instance Packinghouse*

1. *A person is authorized to act as a First-Instance Packinghouse only if:*
  - a) *The person is registered with the Commission and is designated as a First-Instance Packinghouse of the Commission;*
  - b) *The person is qualified to and obtains annually from the Commission one of the appropriate licenses herein described;*
  - c) *The person is compliant with all applicable CFIA standards and food safety requirements; and*
  - d) *The person pays to the Commission annually the fees for such license as described in Schedule III to these General Orders.*
2. *A Class I License may be issued on the initial application to the Commission or on any subsequent application if that person has not had a license of any class suspended or cancelled pursuant to Section 3.*

3. *If any license is suspended or cancelled, the Commission may issue a Class II, Class III, Class IV or Class V license at its discretion; such a classification will be for a minimum of one year unless otherwise ordered by the Commission.*
  4. *No person shall receive Raw Regulated Product from a Producer for the purpose of washing, sorting, grading, sizing, or packing directly into a container for sale, except for:*
    - a) *A First-Instance Packinghouse that is duly licensed and in good standing with all applicable provisions herein;*
    - b) *An Agency that operates a facility where Raw Regulated Product is delivered for the purpose of washing, sorting, grading, sizing, or packing directly into a container for sale; or*
    - c) *A person who is specifically exempted from the requirements of this section pursuant to these General Orders or otherwise by Order of the Commission.*
  5. *A First-Instance Packinghouse must be assigned to a designated Agency or to a Producer Shipper. Unless otherwise ordered by the Commission, no other Agency or Producer Shipper shall receive regulated product from a First-Instance Packinghouse without approval of the assigned designated Agency or Producer Shipper, as the case may be.*
  6. *No person may ship Regulated Product from a First-Instance Packinghouse other than:*
    - a) *the designated Agency assigned to that First-Instance Packinghouse;*
    - b) *the Producer Shipper assigned to that First-Instance Packinghouse; or*
    - c) *a person who is specifically exempted from the requirements of this section pursuant to these General Orders or otherwise by Order of the Commission*
  7. *The First-Instance Packinghouse licence is handled as part of the agency / producer-shipper licensing process, as the case may be. Where an agency applies for a packing-house licence, the grower marketing agreement (GMA) between a producer and an agency is to assign a packinghouse to the producer.*
3. Section 14 be added to **PART IX GENERAL PROHIBITIONS** of the General order as follows:
14. *A wholesaler cannot be licensed as a First-Instance Packinghouse for an assigned or designated agency, unless authorized by Order of the Commission.*
4. **Schedule III Annual Licence Fees** is amended with the addition of the First-Instance Packinghouse licence category and fee structure as follows:

Licensee	Class 1	Class 2	Class 3	Class 4	Class 5
First-Instance Packinghouse	\$ -	\$1,250	\$2,500	\$12,500	\$50,000

Sections 1, 2, 3 and 4 of this Order come into effect **XXX, 201X**.

DATED at Surrey, British Columbia on **XXXX, 201X**  
**BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION**

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Debbie Etsell, Chair

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Hugh Reynolds, Secretary