

BY E-MAIL

May 28, 2020

BCVMC NOTICE

Amending Order No. 50

Part IV – LICENCING

PART XI – MARKETING REGULATED PRODUCT FOR PROCESSING OR MANUFACTURE

New Provisions for the Regulation of Strawberries for Processing

Effective Date: [May 28, 2020](#)

To all Producers, Processors, Agencies and Stakeholders,

The volume of BC strawberries grown for processing has continued to decline over the years to the point where the BC industry on average processes less than 30 tons annually, and a couple of producers account for the bulk of locally grown processing strawberries. This change in the market conditions has prompted producers to ask the Commission to make amendments to the General Order that reduce the administrative functions imposed on strawberries for processing that are required by regulation. Amending Order No. 50 provides for a reduction in the regulatory requirements.

A summary of the specific changes to the General Order contained in amending order No. 50 that will have a direct impact on strawberries for processing are as follows:

PART IV LICENSING

- 23. A Producer licence is not required for the production of strawberries destined for processing or manufacturing if less than 30 tons of such strawberries is grown and shipped by the producer to a processor in a crop year.*
- 24. A Processor licence is not required for the processing of strawberries if ;*
- a) less than 30 tons of strawberries is processed in the crop year; or*
 - b) at least 50% of the strawberries so processed is sourced from a producer that is owned or controlled exclusively by the processor.*

PART XI MARKETING REGULATED PRODUCT FOR PROCESSING OR MANUFACTURE

25 *Strawberry Processing Crop Contracts between a producer and a processor may be negotiated directly between the producer and the processor, who may fix the price between them.*

26 *In the event of a dispute arising out of the terms of a processor Strawberry Processing Crop Contract, the dispute shall be resolved by mediation and arbitration as follows:*

- (a) As the first step in the dispute resolution process, the general manager of the Commission shall attempt to resolve the dispute through mediation between the parties;*
- (b) Where the parties to this agreement at the mediation stage request a mediator, other than the general manager, the Arbitrator's office at 650 West Georgia Street, Vancouver, BC, shall be requested to appoint a mediator;*
- (c) In the event the mediator is unable to resolve the dispute within 15 days of the mediator being requested to resolve the dispute, the dispute shall be referred to a three-person panel comprising of one member appointed by the Producers, one member appointed by the Processor(s), and a third member agreed to and appointed by the Producers' and Processors' representatives;*
- (d) If the Producers' and the Processors' representatives are unable to agree on a third member within seven (7) days, the B.C. International Commercial Arbitration Centre shall be requested to appoint the third panel member.*
- (e) The third member of the mediation panel appointed under either Clause (c) or Clause (d) of this section shall act as chair of the panel;*
- (f) No person may convey any information to the third member of the arbitration panel concerning any matters which may have arisen prior to arbitration;*
- (g) The arbitration panel's decision shall be final and binding on the parties;*
- (h) The costs of the mediation and arbitration shall be shared equally by the parties.*

A complete copy of **Amending Order No. 50** is found in appendix A attached to this notice. The amending order has also been posted to the BCVMC website on the following webpage: <http://www.bcveg.com/general-order--amending-orders.html>.

Under the Natural Products Marketing (BC) Act (NPMA), The BC Farm Industry Review Board (BCFIRB) can hear appeals from anyone who is aggrieved by or dissatisfied with an order, decision or determination of an agricultural commodity board in B.C.

You must file a written notice of appeal with BCFIRB within 30 days notification of the order, decision or determination, or you may lose the right to file your appeal.

For information about the appeal process please refer to the BCFIRB website or contact the BCFIRB office. <https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals/bc-farm-industry-review-board/npma-appeals>

Business Hours: 8:30 - 4:30 Monday-Friday (Except Holidays)

BCFIRB Office: 250-356-8945

Yours truly,

A handwritten signature in black ink, appearing to read 'Andre Solymosi', written in a cursive style.

Andre Solymosi,
General Manager

B. C. Vegetable Marketing Commission

AMENDING ORDER # 50

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

MADE BY THE BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION May 28th, 2020

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

PART IV LICENSING

Licences – Producer

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10. **Subject to sections 22, 23 and 24**, no Producer, shall grow, process or market Regulated Product unless that Producer:
 - (a) registers with the Commission;
 - (b) is qualified to and obtains annually from the Commission one or more of the appropriate licenses herein described; and
 - (c) Pays to the Commission annually the fees for such licences as described in Schedule 3 to these General Orders.
11. A Class I Licence may be issued to any Producer on the initial respective application to the Commission, or on any other subsequent application by any respective Producer who has not had a licence of any class suspended or cancelled pursuant to Section 6 of this Part.

12. If any licence is suspended or cancelled, the Commission may issue a Class II, Class III, Class IV or Class V Licence at its discretion; such a classification will be for a minimum of one year unless otherwise ordered by the Commission.

Licences - Processor, Wholesaler, Commission Salesperson

13. **Subject to sections 22, 23 and 24**, no Processor, Wholesaler or Commission Salesperson shall grow process or market Regulated Product unless he:

- (a) registers with the Commission;
- (b) is qualified to and obtains annually from the Commission one or more of the appropriate licences herein described; and
- (c) Pays to the Commission annually the fees described in Schedule 3 to these General Orders.

14. A Class I Licence may be issued to any Person under this section on the initial respective application to the Commission, or on any other subsequent application by any respective Person under this section who has not had a licence of any class suspended or cancelled pursuant to Section 6 of this Part.

15. If any licence is suspended or cancelled, the Commission may issue a Class II, Class III, or Class IV Licence at its discretion; such a classification will be for a minimum of one year unless otherwise ordered by the Commission.

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Licences – Issuance, Cancellation or Suspension

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21. **Subject to sections 22, 23 and 24**, no Producer, Producer-Shipper, Commission Salesperson, Processor, Wholesaler or Agency shall operate without a licence.

- (a) Any Person who plans to act or who acts as an Agency must obtain an Agency licence and must be designated by the Commission as an Agency.
- (b) Any Person who plans to act or who acts as a Processor must obtain a Processor's licence.
- (c) Any Person who plans to produce or who produces Regulated Product must obtain a Producer's licence.
- (d) Any Person who plans to act or who acts as a Wholesaler must obtain a Wholesaler's licence.

- (e) Any Person who plans to operate or who operates as a Producer-Shipper must obtain a Producer-Shipper licence.
 - (f) Any Person who plans to act or who acts as a Commission Salesperson must obtain a Commission Salesperson's licence.
22. Producers holding, in aggregate, less than 2,000 m² of Greenhouse Vegetable Production Allocation are not required to be licensed as Producer-Shippers nor are they required to market through an Agency unless otherwise directed by the Commission. Multiple registrations on the same physical site or several facilities under common ownership and management shall be considered single units for the purposes of determining applicability of this 2,000 m² exemption.
23. A Producer licence is not required for the production of strawberries destined for processing or manufacturing if less than 30 tons of such strawberries is grown and shipped by the producer to a processor in a crop year.
24. A Processor licence is not required for the processing of strawberries if ;
- c) less than 30 tons of strawberries is processed in the crop year; or
 - d) at least 50% of the strawberries so processed is sourced from a producer that is owned or controlled exclusively by the processor.

PART XI MARKETING REGULATED PRODUCT FOR PROCESSING OR MANUFACTURE

General Provisions

1. No Producer shall sell or offer for sale and no Processor shall buy or offer to buy Regulated Product except by the terms of a written contract approved by the Commission, which includes by reference the terms, covenants and conditions required by this Part.
2. Every Processor and every Producer entering into a contract under this Part must have a valid license issued by the Commission.
3. Any decisions or determinations of any committee including those of a mediator or arbitrator under this Part are recommendations to the Commission and do not take effect until approved by the Commission.
4. The Commission shall be charged with the general supervision of Processing Crop contracts between Producer and Processor.

5. The Commission will use its best efforts and take all reasonable steps to ensure that the terms of contracts are followed and enforced.
6. Final payments may not be made by a Processor to a Producer for any crop under this Part, until the Commission has confirmed such payment is authorized.
7. The Commission shall from time to time, appoint a chair for the committees described in this Part. The Chair may be the General Manager of the Commission, or his designate, or such other Person as the Commission may choose, and the Chair so appointed shall not have a vote.
8. Every producer who is also licensed as a Processor shall report each month to his designated agency any and all marketings of Regulated Product for Processing. Nothing in this section operates to make permissible any such marketings as would otherwise be impermissible under the Commission's General Order or pursuant to an arrangement between the Producer and its designated Agency.

Processing Crop Master Committee

9. A Processing Crop Master Committee will be established by the Commission comprised of an equal number of representatives selected by the Producers of regulated Processing Crops and of representatives selected by the Processors and licensed by the Commission.
10. The Processing Crop Master Committee shall meet at the request of either, the Processors, the Producers, or the Commission.
11. The Processing Crop Master Committee shall make recommendations to the Commission on all matters included in this Part and on amendments to ~~the any~~ Processing Crop Master Contract **required by the Commission**. The Processing Crop Master Contract will include those matters and procedures which would otherwise be common to all or several individual processing crop contracts. All terms and conditions of a Processing Crop Master Contract must be consistent with this Part and all Orders of the Commission and do not take effect until approved by the Commission.

Processing Crop Negotiating Committees

12. Processing Crop Negotiating Committees shall be established by the Commission for each ~~of the~~ regulated Processing Crop **other than strawberries, which Committees shall be** comprised of the Chair, and an equal number of representatives selected by the Producers of regulated Processing Crops and representatives selected by Processors licensed by the Commission. The Chair may determine the equal number of representatives for each party and may approve the attendance of additional Persons as he sees fit and those Persons may

only participate in the meetings as the Chair may approve.

13. Processing Crop Negotiating Committees shall determine the terms and conditions of the contract for each regulated Processing Crop.

Processing Crop Negotiating Committee Procedures

14. Unless mutually agreed by the Processors and the Producers, annual negotiations for each Processing Crop Negotiating Committee shall be completed by the following deadline dates:

peas, bush beans, corn, and Cole crops by March 31;

~~strawberries by June 1.~~

15. The Chair, in consultation with the appropriate Processor and Producer representatives, shall determine the dates to commence negotiations each year so that negotiations and any mediation or arbitration is concluded by the deadline dates.
16. Negotiations, prior to mediation and arbitration, shall not occupy more than two days and shall end no later than fourteen (14) days prior to the deadline dates.

~~Mediation and Arbitration~~

17. If a Processing Crop Negotiating Committee does not reach agreement after meeting for two days, or if in that period the committee determines it is at an impasse, a mediation subcommittee will be struck comprised of the Chair, one member selected by the Producers and one member selected by the Processors. The subcommittee may meet for not more than one day.
18. If no agreement is achieved by mediation, the matter will be referred to arbitration for settlement. If the parties agree on an arbitrator and the format of the arbitration process, those agreements will be the basis of the arbitration.
19. If the parties do not reach agreement on the arbitrator or on how the arbitration will be conducted, the Commission will select the arbitrator and determine the arbitration process to be followed.

Processing Crop Contracts

20. Every contract made by the authority of this Part shall make reference to this Part and to ~~the~~ **any applicable** Processing Crop Master Contract and shall be consequentially amended by any changes made to this Part or to the Master Contract.

21. Every Processing Crop Contract shall include terms and conditions as appropriate for each crop and may include terms and conditions relating to prices, terms of payments, preparation, seeding, growing, harvesting and delivery.
22. No contract is valid unless it is signed by a Processor, a Producer and by the Commission. Contracts signed by a Processor and a Producer must be submitted to the Commission for signature not later than ten (10) days after it is signed by the Processor and the Producer.
23. Every contract shall provide for producer levies and service charges payable to the Commission, as the Commission may from time to time determine. Levies and service charges are a first charge against the gross proceeds otherwise due to a producer.
24. Levies and service charges due to the Commission are due and payable, in the case of strawberries, on or before the 15th day of August, in the case of peas, beans and corn on or before the 15th day of November, and in the case of Cole crops on or before the 15th day of December, in each year in which the contract is made.

Provisions Specific to the Strawberry Processing Crop

25. Strawberry Processing Crop Contracts between a producer and a processor may be negotiated directly between the producer and the processor, who may fix the price between them.
26. In the event of a dispute arising out of the terms of a processor Strawberry Processing Crop Contract, the dispute shall be resolved by mediation and arbitration as follows:
 - (i) As the first step in the dispute resolution process, the general manager of the Commission shall attempt to resolve the dispute through mediation between the parties;
 - (j) Where the parties to this agreement at the mediation stage request a mediator, other than the general manager, the Arbitrator's office at 650 West Georgia Street, Vancouver, BC, shall be requested to appoint a mediator;
 - (k) In the event the mediator is unable to resolve the dispute within 15 days of the mediator being requested to resolve the dispute, the dispute shall be referred to a three-person panel comprising of one member appointed by the Producers, one member appointed by the Processor(s), and a third member agreed to and appointed by the Producers' and Processors' representatives;

- (l) If the Producers' and the Processors' representatives are unable to agree on a third member within seven (7) days, the B.C. International Commercial Arbitration Centre shall be requested to appoint the third panel member.
- (m) The third member of the mediation panel appointed under either Clause (c) or Clause (d) of this section shall act as chair of the panel;
- (n) No person may convey any information to the third member of the arbitration panel concerning any matters which may have arisen prior to arbitration;
- (o) The arbitration panel's decision shall be final and binding on the parties;
- (p) The costs of the mediation and arbitration shall be shared equally by the parties.

Parts IV and XI of this Order come into effect May 28th, 2020.

DATED at Surrey, British Columbia on May 28th, 2020

BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION



Debbie Etsell, Chair



Hugh Reynolds, Secretary