B.C. Vegetable Marketing Commission

AMENDING ORDER # 06
TO THE
GENERAL ORDERS OF MARCH 16, 2005, AS AMENDED,

MADE BY THE
BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION
September 14, 2006

The British Columbia Vegetable Marketing Commission General Orders of March 16 2005 as amended are further amended as follows:

1. **Part I Section 5 is amended by adding the following (inserted in alphabetic order):**

   "**Greenhouse**" means a fixed structure using irrigation and climate control and an artificial growing medium that substitutes for soil.

   "**Greenhouse Vegetable Crop**" means tomatoes (all types); peppers (all types); cucumbers (all types); butter lettuce (all types) grown in a greenhouse; or any other crop designated by the Commission, and includes Greenhouse Vegetable Crops certified as organic.

   "**Greenhouse Vegetable Production Allocation**" means an authorization issued by the Commission to produce a defined area of a greenhouse vegetable crop during the annual licensing period.

   "**Producer-Shipper**" means a person licensed by the Commission to produce Greenhouse Vegetable Crops and to market some or all of the Greenhouse Vegetable Crops produced by him directly to commercial trade channels but unless specifically authorized by the Commission does not include marketing to a Wholesaler, Agency or another Producer-Shipper.

   "**Specialty Crops**" means crops with unique production based attributes which give rise to market differentiation from mainstream commodity crops which is preserved through grading, packing, marketing and distribution to the final consumer. Differentiating attributes may include some or all of unique genetics, specialized production programs, and unique facility and management requirements. Greenhouse Vegetable Crops designated as specialty crops are listed in Schedule 6 to these Orders.

"**Types**" means all varieties of an individual Greenhouse Vegetable Crop except crops specifically designated by the Commission as specialty crops.

2. Part III Section 4 is amended by adding the words "licensed as a Producer Shipper or" after the words "Producer is".

3. Part IV Section 1(b) is amended by adding the words "Producer Shipper" before "Producer Processor".

4. Part IV is amended by adding a new Section 5 as follows and renumbering the former Sections 5 through 9 as 6 through 10 respectively.

Licenses – Producer - Shippers

5. No Producer-Shipper shall grow and market Greenhouse Vegetable Crops unless he:
   (a) registers with the Commission;
   (b) is qualified to and obtains annually the appropriate license from the Commission, and
   (c) pays to the Commission annually the fees for such licenses as described in Schedule III to these General Orders.

5. Part IV is amended by deleting the renumbered Section 7 and substituting the following:

7. Licenses are valid for one (1) year for the period commencing the day after the due date described in each instance below and expiring on the next annual due date. Every application for a license whether it is an initial application or a renewal must be made on a form prescribed by the Commission and shall be submitted to the Commission no later than the following due dates of each year:
   (a) Producers of Greenhouse Vegetable Crops and Producer-Shippers – November 1.
   (b) Other Producers – May 14th
   (c) Designated Agencies, Commission Salespersons, Processors and Wholesalers – March 1st.

6. Part IV is amended by adding Section 11 as follows:

11. Producers holding, in aggregate, less than 5,000 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 5,000 m2 exemption.

7. Part IV renumbered Section 8 is amended by adding the words "or Producer Shipper after "Producer".

8. Part IV renumbered Section 10 is amended by adding the words "Producer Shipper after "Producer" and by adding subsection (h) as follows:

(h) Any Person who plans to operate or who operates as a Producer-Shipper must obtain a Producer-Shipper license

9. Part VI is repealed and the following substituted therefore:

1. If a Producer and the Agencies involved agree, a Producer in good standing with the Commission may transfer from one Agency to another Agency. The parties must notify the Commission of the transfer before it takes effect.

2. If a producer wishes to transfer from one Agency to another Agency, or if an Agency wishes to discontinue receiving Regulated Product from a producer but one or more of the involved parties does not agree the Commission may make a determination binding upon the Producer and the Agency or Agencies.

3. No transfer registered with the Commission and no determinations made by the Commission pursuant to this Part shall be intended to negate, terminate or diminish established, agreed commercial arrangements or contracts between an Agency and a Producer.

10. Part VIIA is inserted as follows:

PART VIIA PRODUCER – SHIPPER RESPONSIBILITIES

Intent

1. The intent of licensing certain producers as Producer-Shippers is to provide those producers who wish to Market and distribute directly to retail trade channels the opportunity to do so. Retail trade channels, for the purposes of Producer-Shipper licensing, are defined as individual retail stores, farm markets, and individual foodservice establishments. It is not intended that Producer-Shipper licensing is a means for individual producers to sell or Market to other Producer-Shippers, Agencies or Wholesalers whether located inside or outside B.C.

2. For most intents and purposes, Producer-Shipper licensing replaces previous exemptions from Marketing through an Agency, and some producers currently (as at September 2006) exempted from marketing through a Agency will be required to be licensed as Producer-Shippers

for the 2007 crop year.

Producer Shipper Licensing

3. To obtain a Producer-Shipper license an applicant must:

(a) be assigned one or more Greenhouse Vegetable Production Allocations, and
(b) demonstrate that he is not committed, aligned, or connected by commercial contract, ownership or any form of legal undertaking that requires that he market through an Agency, and
(c) obtain approval from the Commission for his Marketing plan, and such plan shall be submitted to the Commission at least annually, in advance of licensing, or whenever a change from the approved plan is contemplated, and
(d) satisfy the Commission that he has the expertise and facilities to successfully produce, pack or have a contract to have his produce packed for him, market and distribute his greenhouse crop.

4. A Producer Shipper must hold a valid and subsisting Producer-Shipper License.

Responsibility to Market

5. A Producer Shipper must pack, market and distribute Regulated Products produced by him in accordance with the approved Marketing plan.

6. A Producer-Shipper may, with the prior permission of the Commission, from time to time when he is either long or short of requirements to meet his markets and marketing plan, temporarily, and for periods not greater than fifteen (15) days:

(a) market a portion of his greenhouse vegetable crop, which portion shall not exceed 5% of his Greenhouse Vegetable Production Allocation for that crop in the crop year, to another Producer-Shipper; or,
(b) sell a portion of his greenhouse vegetable crop, which portion shall not exceed 5% of his Greenhouse Vegetable Production Allocation for that crop in the crop year, to an Agency.

7. Other than as provided for in paragraph 6 of this Part, no Producer-Shipper shall offer for sale any Regulated Greenhouse Vegetables produced by any other Producer, nor shall they offer to purchase for subsequent sale by them any Greenhouse Vegetables produced by any other Producer.

8. Other than as provided for in paragraph 6 of this Part, no Producer-Shipper shall offer for sale any Regulated Greenhouse Vegetables

produced by them to any other Producer-Shipper, Agency, or Wholesaler.

Reporting Requirements

9. A Producer Shipper must report all Greenhouse Vegetable crop Marketing, including but not limited to volumes shipped and prices received, as directed by the Commission.

10. A Producer Shipper must comply with, and regularly report, production and Marketing as may be required by any Commission programs that collect and disseminate market information.

Levies and Service Fees

11. A Producer Shipper must remit all charges and levies due on the production and Marketing of the Regulated Product produced under the approved Production Allocation.

Limitations on Producer Shippers

12. A Producer-Shipper may not:
    (a) market Regulated Product produced by another producer except as specifically provided for in paragraph 6 above, or
    (b) serve as a director or an officer of an Agency, or
    (c) have a contract, agreement, or understanding with an Agency or Wholesaler for the Marketing of any or all of his Greenhouse Vegetable Crops, or
    (d) continuously market any or all of his Regulated Product to an Agency or Wholesaler under the authority of his Producer-Shipper's license.

11. Part VIII Section 1 is amended by adding the words "or Producer-Shipper" after the word "Agency".

12. Part IX Section 2 is repealed and the following substituted therefore:

2. A Wholesaler shall only buy, accept or receive a Regulated Product from an Agency.

13. Part IX Section 3 is repealed and the following substituted therefore:

3. A Retailer located in BC shall only buy, accept or receive a Regulated Product from an Agency, a Processor, a Wholesaler, a Producer-Shipper in accordance with Part VIII of these Orders, or a Producer as authorized by a Manifest sales program.

14. Part IX is amended by adding Section 13 as follows:

13. No Producer-Shipper shall sell or offer to sell Regulated Product to, or buy or offer to buy Regulated Product from, an Agency, other Producers, other Producer-Shippers or Wholesalers except as specifically provided for in these Orders or as otherwise authorized by the Commission.

15. Part X is amended by adding Division (iii) to Subsection (a) of Section 2 as follows and by renumbering the former Division (iii) of Subsection (a) of Section 2 as Division (iv) of Subsection (a) of Section 2.

(iii) a Producer Shipper holding a current Producer Shipper license; or

16. Part X is amended by adding Section 6 as follows:

6. The following classes of Producers are not required to market their Regulated Vegetable Production through an Agency or Processor unless otherwise directed by the Commission:

(a) All Producers of organically certified Regulated Field or Storage crops with the exception of those producers marketing through Fraserland Organics Inc.
(b) All Producers of organically certified Greenhouse Vegetable Crops.
(c) All Producers of Regulated Field Crops in District I.
(d) All licensed Producer-Shippers of Greenhouse Vegetable Crops.
(e) Licensed producers holding, in aggregated, less than 5,000 m2 of Greenhouse Vegetable Production Allocation.
(f) All Producers of greenhouse peppers in Districts II
(g) All Producers of Greenhouse Vegetable Crops in District III
(h) All Producers of Regulated Product located north of the 53° parallel.

17. Part XVIII is repealed and the following substituted therefore:

1. All other Parts of the General Orders apply to Greenhouse Vegetable Crops except for Part XI and Part XVII.

2. The Commission may make rules or determinations, or may establish, continue or terminate programs and policies, consistent with the Act and the Scheme and without limiting the generality of the foregoing may:

(a) assist with market coordination;
(b) assemble and disseminate relevant industry information;
(c) support education, research and innovation;
(d) support or conduct advertising, educational, promotional and research programs,
(e) establish quality standards; and,
(f) assist growers in achieving acceptable on-farm food safety

standards.

Greenhouse Vegetable Production Allocation

3. Only Persons assigned one or more Greenhouse Vegetable Production Allocations may produce Greenhouse Vegetable Crops in British Columbia and a Greenhouse Vegetable Production Allocation may only be used as approved by the Commission.

4. A Greenhouse Vegetable Production Allocation is specific to a Greenhouse Vegetable Crop.

5. A person may use up to 500 square meters (m^2) of the aggregate of his Greenhouse Vegetable Production Allocations for research or market trials without impacting his approved Greenhouse Vegetable Production Allocation.

Marketing a Greenhouse Vegetable Crop

6. A greenhouse vegetable Producer shall, with the approval of the Commission, market his Greenhouse Vegetable Crop to an Agency, or directly if licensed as a Producer-Shipper in accordance with Part VIII of these Orders.

7. A greenhouse vegetable Producer marketing a designated specialty crop may, with the approval of the Commission and subject to any existing commercial agreements or contracts between the Producer and his Agency, market that portion of his Greenhouse Vegetable Production Allocation dedicated to specialty or organic crops as a Producer-Shipper in accordance with Part VIII of these Orders.

Applications for New Greenhouse Vegetable Production Allocation

8. Applications for new or additional Greenhouse Vegetable Production Allocation may be made to the Commission by licensed Producers or prospective new producers at any time.

9. An applicant for new or additional Greenhouse Vegetable Production Allocation must satisfy the Commission that he:

    (a) possesses or has access to sufficient capital to complete the proposed greenhouse and bring it into production, and
    (b) has a marketing plan acceptable to the Commission or can confirm to the Commission that he has an agreement with an Agency to market his production, and
    (c) has the knowledge or employs or intends to employ a person or persons with sufficient horticultural knowledge so as to be likely to produce a high quality product, and

(d) undertakes to remain informed of and comply with Commission Orders as amended from time to time.

10. All applications for new or additional Greenhouse Vegetable Production Allocation must include an application fee of $500.

11. Successful applicants for new Greenhouse Vegetable Production Allocation must deposit a cash amount or provide an irrevocable letter of credit equivalent to $1.00 per square metre of the Greenhouse

    Vegetable Production Allocation, with the Commission, within 30 days of written confirmation of approval of the Greenhouse Vegetable Production Allocation. If commercial planting from the approved Greenhouse Vegetable Production Allocation Area does not commence as approved by the Commission the deposit will be forfeited or the letter of credit will be called. The deposit or letter of credit will be returned to the Producer if greenhouse vegetable production commences as approved by the Commission. The completion time may be extended if approved by the Commission upon application from the applicant due to a delay or delays caused by factors beyond the applicant's control.

Changing Between Greenhouse Vegetable Crops

12. A Person who wishes to change his Greenhouse Vegetable Production Allocation from one Greenhouse Vegetable Crop to another must apply to, and obtain permission from, the Commission prior to making any changes.

13. Applications to change from one Greenhouse Vegetable Crop to another may be made at any time during the year.

Changing Type within a Greenhouse Vegetable Crop

14. A person who intends to change the Type of his Greenhouse Vegetable Crop must notify the Commission in writing on a form prescribed by the Commission prior to making any changes.

Suspending or Cancelling a Greenhouse Vegetable Production Allocation

15. Subject to paragraph 16, if a person ceases greenhouse vegetable production in all or part of his Greenhouse Vegetable Production Allocation for one year, all or a portion of the Greenhouse Vegetable Production Allocation may be cancelled.

16. A person holding a Greenhouse Vegetable Production Allocation and not intending to produce greenhouse vegetables for one year may make application in writing, in advance, to preserve a Greenhouse Vegetable Production Allocation and the Commission may approve the

request.

17. The Commission may cancel or suspend a Producer's Greenhouse Vegetable Production Allocation for cause if the continued use of the Greenhouse Vegetable Production Allocation puts other Producers or Producer-Shippers at material risk of injury.

18. Part XIX Section 1 is amended by adding the words "and Producer-Shippers, ensure Agencies and Producer-Shippers are" after "for all Agencies" and by striking out "be" before "as competitive as necessary".

19. Part XIX Section 2 is amended by adding the words "Producer-Shippers" after "Agency".

20. Part XIX Section 3 is amended by adding the words "Producer-Shippers" after "Agencies and".

21. Part XX Section 5 is amended by adding the words "Producer-Shippers" after "Producers".

22. Schedule III is repealed and the following substituted therefore:

	Class 1	Class 2	Class 3	Class 4	Class 5
Agency					
$500 plus an amount equivalent to 0.025% of annual sales, all to a maximum of $25,000 (Annual Sales based on most recently completed audited financial statement)	**Base amount**	**Class 1 times 2**	**Class 1 times 3**	**Class 1 times 4**	**Class 1 times 5**
Producer	**$50**	**$100**	**$1,000**	**$5,000**	**$20,000**
Producer Shipper					
$500 plus an amount equivalent to 0.025% of annual sales, all to a maximum of $25,000 (Annual Sales based on most recently completed audited financial statement)	**Base amount**	**Class 1 times 2**	**Class 1 times 3**	**Class 1 times 4**	**Class 1 times 5**
Processor	**$100**	**$500**	**$1,000**	**$5,000**	
Commission Salesman	**$100**	**$500**	**$1,000**	**$5,000**	
Wholesaler	**$100**	**$500**	**$1,000**	**$5,000**	
Producer Processor	**$100**	**$500**	**$1,000**	**$5,000**	
Packinghouse	**$100**	**$500**	**$1,000**	**$5,000**	

23. Schedule V is repealed and the following substituted therefore:
Schedule V – Producer-Shippers – 2006

The following individual licensed Producers were initially granted an exemption for 2006 and will be issued Producer-Shipper licenses for the balance of 2006 when this Order takes effect.

Island HotHouse Inc – District II greenhouse
Sandhu Greenhouses & Nursery Ltd - District III greenhouse
T.J. Greenhouses & Orchard Ltd – District III greenhouse

24. Schedule VI is added as follows:

Schedule VI (6) – Designated Greenhouse Vegetable Specialty Crops

The following crops are designated as Greenhouse Vegetable Specialty Crops:

Mini cucumbers

Ramiro peppers

Chilli peppers

Mini Peppers

Certified Organic Greenhouse Vegetable Crops (all crops), when certified by an accredited third party as being produced and marketed in accordance with generally recognized organic standards which are approved and accepted by responsible public authorities.

25. This Order comes into effect on September 14 2006.

DATED at Surrey, British Columbia, on September 14, 2006.

BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION

(original signed by)
George Leroux, Chair

(original signed by)
Tom Reinhart, Secretary