

# BC Vegetable Marketing Commission

## General Orders of March 16, 2005

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## **PART I     INTRODUCTORY**

These Orders replace the former General Orders of the British Columbia Vegetable Marketing Commission ("Commission"). To the extent of any inconsistency between these Orders and any other Order, direction or policy of the Commission, these Orders shall prevail.

### *Purpose of Orders*

1. The Commission is vested with the power to promote, control and regulate in any respect the production, transportation, packing, storage and marketing of Regulated product grown in British Columbia, including the production, transportation, packing, storage and marketing of Regulated Product for sale within British Columbia and for interprovincial and export trade.

### *Power to Exempt*

2. The Commission is vested with the power to exempt from a determination or order a person or class of persons engaged in the production, packing, transporting, storing or marketing of a regulated product or a class, variety or grade of it.

### *Regulated Area*

3. This Order shall apply to Regulated Product grown in British Columbia under the Scheme. The onus of proving that any Regulated Product sold or offered for sale, or bought or offered to be bought, was not grown in British Columbia, shall be upon the Person asserting the same.

### *Authority of Commission*

4. The Commission exercises its powers under the following enactments
  - (a) Natural Products Marketing (BC) Act, R.S.B.C. 1996, c.330
  - (b) Agricultural Products Marketing Act, R.S., c. A-6;
  - (c) British Columbia Vegetable Scheme, B.C. reg. 96/80; amended by #1623- 2004 - 13
  - (d) British Columbia Vegetable Orders, SOR/81-49 & 2002-309 made under the Agricultural Products Marketing Act, R.S., c. A-6;
  - (e) Order in Council No.361, approved and ordered May 4, 2000, made under the Natural Products Marketing (BC) Act, R.S.B.C. 1996, c. 330; and
  - (f) Natural Products Marketing (BC) Act Regulations, B.C. Reg 328/75.

### *Interpretation*

5. In this and all other Orders of the Commission, unless the context requires otherwise, the definitions contained in the above named enactments will have effect together with the following additional definitions:

"**Act**" means the Natural Products Marketing (BC) Act, R.S.B.C. 1996, c330.

"**Agency**" means a Person designated by the Commission as an agency and authorized to act as such pursuant to Schedule 1 of these General Orders.

"**BC No. 1 Grade**" means BC No. 1 Grade as defined in the Agricultural Produce Grading Act, R.S.B.C. 1996, c.11, or regulations thereto.

"**BC No. 2 Grade**" means BC No. 2 Grade as defined in the Agricultural Produce Grading Act, R.S.B.C. 1996, c.11, or regulations thereto.

"**Canada No. 1 Grade**" means Canada No. 1 Grade as defined in the Agricultural Produce Grading Act, R.S.B.C. 1996, c.11, or regulations thereto.

"**Canada No. 2 Grade**" means Canada No. 2 Grade as defined in the Agricultural Produce Grading Act, R.S.B.C. 1996, c.11, or regulations thereto.

"**Certificate of Authority**" means a document authorized by the Commission granting authority to an employee, agent, or representative of the Commission to perform specified tasks for the Commission within a specified time frame.

"**Certified Organic**" means certified by the Certified Organic Association of British Columbia or any other certification body approved by the Commission.

"**Cole Crops**" means broccoli, cauliflower, Brussels sprouts and any other crop designated by the Commission.

"**Commercial Producer**" means a Producer whose name has been entered and remains registered in one or more of the registers of Commercial Producers referred to in Section 5 of the Scheme. In accordance with Section 7 of the Scheme, a Producer qualifies to be registered as a Commercial Producer in the district register for a district in which he operates a farm if, during the immediately preceding 12 months, Regulated Product of at least a gross value to the Producer of \$5,000 has been grown on the farm and marketed from it through an Agency or licensed processor.

"**Commission**" means the British Columbia Vegetable Marketing Commission.

"**Commission Salesperson**" means a person who purchases Regulated Product from a designated Agency to offer for sale, sell or supply to Retailers and sells that Regulated Product directly from a delivery vehicle.

"**Consumer**" means a person who purchases Regulated Product for the purposes of consumption by himself and his immediate family.

"**Container**" means any covering, bag, box or other container or receptacle in which the Regulated Product can be packed, transported or marketed.

"**Crop Year**" means:

- (a) January 1st to December 31st of any year for Greenhouse Crops, Processing Crops including Cole Crops and Field Crops; and
- (b) Beginning of season to June 30th of the following year for Root Crops or Storage Crops.

"**Delivery Allocation**" means an authorization issued by the Commission to a producer to deliver to an agency, or to market as otherwise directed or approved by the Commission, a specified amount of a regulated product within a specified time period.

"**District**" means any of the three Districts outlined or specified in these Orders, namely:

"**District I**" means that part of the Province west of the 121st meridian of west

longitude and south of the 50th parallel of north latitude, excluding Vancouver Island and the Gulf Islands;

“**District II**” means Vancouver Island and the Gulf Islands;

“**District III**” means that part of the Province not in the first or second Districts.

"**Farm**" includes a greenhouse.

"**Field Crops**" means field lettuce and celery and any other crop designated by the Commission.

"**Greenhouse Crops**" means cucumbers, tomatoes, peppers and lettuce, and any other crop designated by the Commission, grown in a greenhouse.

"**Grower Marketing Agreement**" or "Producer Marketing Agreement" or “Sales and Marketing Agreement” means an agreement between a Producer and an Agency or a Producer and a Packing House which sets out the terms and conditions upon which the Regulated Product shall be provided by the Producer and sold by the Agency.

“**Immediate Family Member**” includes the spouse of the producer, the parent or child of the producer, or the parent or child of the spouse of the producer.

"**Manifest Sales**" means when a Producer supplies local product directly to smaller outlets which are not Customers of an Agency or other Person specified by the Commission.

"**Marketing**" includes buying, selling, promoting, shipping, storing, cooling, offering for sale or storage, supplying, packing or transporting regulated Product grown in the Province for intraprovincial, interprovincial or export trade.

"**Master Contract**" means an industry wide contract applicable to a particular regulated Processing Crop which has been approved by the Commission.

"**Municipal Market**" means any public market authorized and/or maintained by a city, municipality, provincial or federal government.

"**Order**" means an Order of the Commission, as may, from time to time, be issued by the Commission and includes these General Orders.

"**Packing House**" means a place where Regulated product is washed, brushed, graded, packed, or stored or from which Regulated Product is shipped to market.

"**Person**" includes an individual, firm, partnership, corporation, association, sole proprietorship, trust, or any other entity specified by the Commission.

"**Processing**" includes freezing, canning, packing or in any way preserving or altering Regulated Product.

"**Processing Crops**" includes peas, beans, corn, cauliflower, broccoli, Brussels sprouts and strawberries and any other crop designated by the Commission.

"**Processor**" means any Person who changes the nature of the Regulated Product by mechanical means or otherwise and markets, offers for sale or supplies, stores or transports the processed or manufactured product.

"**Producer**" means a Person who operates a Farm on which one tonne or more of the Regulated Product has been produced during the immediately preceding 12 months and includes a Producer who is producing regulated product that has been certified as organic.

"**Producer Processor**" means a Person who is both a Producer and a Processor.

“**Production Allocation**” means an authorization issued by the Commission to a producer to produce a specified regulated product within a specified time period.

**"Regulated Product"** means vegetables grown in British Columbia and listed in Schedule 2 of these Orders, and includes potatoes well as strawberries intended expressly for Processing or manufacturing purposes.

**"Retailer"** means any Person who offers for sale, sells or supplies the Regulated Product directly to Consumers from a fixed commercial establishment located in B.C.

**"Root Crops"** or **"Storage Crops"** means potatoes, onions, parsnips, cabbage, carrots, beets, rutabagas, white turnips or any other crop designated by the Commission.

**"Scheme"** means the British Columbia Vegetable Scheme as amended from time to time.

**"Shipper"** means any Person authorized to transport Regulated Product on behalf of the Commission or its designated Agencies.

**"Sub-Agency"** means a sub-agent of a designated Agency appointed or designated by the Commission.

**"Transport Order"** means a permit, either verbal or written, issued in the name of the Commission by a duly authorized employee or nominee of the Commission authorizing the movement or transporting of Regulated Product from a Producer's farm to an Agency, a Processor, a Packing House or a warehouse each of whom must be designated by the Commission and specifying the day or days between which the Regulated Product covered by the Transport Order may be moved.

**"Vehicle"** includes any motor vehicle, wagon, railway car, ship, boat, or airplane or any other thing in which the Regulated Product can be transported.

**"Wholesaler"** means a Person, other than an Agency, who sells or offers for sale the Regulated Product to a Retailer, Caterer, Processor, or other Wholesaler or otherwise than directly to a Consumer, but does not include a Person who has no facilities to store or transport the Regulated Product.

6. Wherever the masculine or singular is used throughout the Order, the same shall be construed as including the feminine, plural, partnership, or body corporate, as the context may require.

## **PART II                    BOOKS AND RECORDS**

### *Requirement to Keep Records and Information*

1. Every Person shall keep in the English language complete and accurate books and records of all matters including the production and Marketing (including grading) of the Regulated Product by that Person, or any other books and records as may be specified by the Commission from time to time.
2. For the purposes of ascertaining whether the Orders, rules and regulations of the Commission are being complied with, every Person shall, upon request, produce for inspection by the Commission or any member of the Commission, or any of its employees or any other Person authorized by the Commission for that purpose, all such books and records kept by that Person.

3. Every Person shall, upon request, furnish to the Commission any information relating to the production, grading, Processing and Marketing by that Person, of the Regulated Product and shall make specific answers to any questions submitted to them by any member or employee of the Commission or any other Person duly authorized by the Commission.

### **PART III                    LEVIES AND SERVICE FEES**

1. Unless otherwise exempted by the Commission, all persons engaged in the production or marketing of regulated vegetables shall pay levies or service fees to the Commission based on the volume of regulated product produced or marketed, or on the area producing regulated product. The Commission may also impose and collect temporary or ongoing special levies or service fees applicable to one or more regulated products. Levy or services fee amounts are established and amended from time to time by the Commission and are described in Schedule IV to these General Orders.
2. The funds derived from levies or service fees may be used for any purposes approved from time to time by the Commission.
3. Each Agency or Processor shall deduct the appropriate Commission levy or service fee from the producer's net proceeds as directed by the Commission, for the regulated product which the Agency or Processor is appointed to handle, and each Agency shall hold such funds in trust and shall remit the funds to the Commission as laid out in these General Orders.
4. Where a producer is exempted from the requirement to market regulated product through a designated agency or a Processor, the levies or service fees applicable to that production, unless otherwise exempted by the Commission, are due and payable directly to the Commission as laid out in these General Orders or as otherwise directed by the Commission.

### **PART IV                    LICENSING**

#### *Licences – Agencies*

1. No person other than an Agency shall purchase Regulated Product from a Producer or market Regulated Product, within British Columbia or in interprovincial or export trade, except that:
  - (a)Regulated Product may be purchased from a Producer by a Consumer or by a Processor licensed by the Commission as permitted by these General Orders;
  - (b)Regulated Product may be marketed by a Producer, Producer Processor, Processor, Packing House, Commission Salesperson or Wholesaler who is licensed in accordance with these General Orders in the manner permitted by the term of the licences, these General Orders, and any other Order of the

Commission; and

- (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 may market Regulated Product as permitted by the Commission.

2. A Person is authorized to act as an Agency if the Person:

- (a) registers with the Commission and is designated as an Agency of the Commission;
- (b) is qualified to and obtains annually from the Commission one of the appropriate licences herein described; and
- (c) pays to the Commission annually the fees for such licence as described in Schedule III to these General Orders.
  - (i) A Class I Licence may be issued on the initial application to the Commission or on any subsequent application if that Person or Agency has not had a licence of any class suspended or cancelled pursuant to Section 5.
  - (ii) 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.

3. Licences - Producer

- (a) No Producer, shall grow, process or market Regulated Product unless that Producer:
  - (i) registers with the Commission;
  - (ii) is qualified to and obtains annually from the Commission one or more of the appropriate licenses herein described; and
  - (iii) pays to the Commission annually the fees for such licences as described in Schedule 2 to these General Orders.
- (b) 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 5 of this Part.
- (c) 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.

4. Licences - Processor, Commission Salesperson, Wholesaler

- (a) No Processor, Producer Processor, Packing House, Commission Salesperson, or Wholesaler shall grow, process or market Regulated Product unless he:
  - (i) registers with the Commission;
  - (ii) is qualified to and obtains annually from the Commission one or more of the appropriate licences herein described; and
  - (iii) pays to the Commission annually the fees described in Schedule 2 to these General Orders.
- (b) A Class I Licence may be issued to any Person under section 4(a) on the initial respective application to the Commission, or on any other subsequent

application by any respective Person under 4(a) who has not had a licence of any class suspended or cancelled pursuant to Section 5 of this Part.

- (c) 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.

5. Licences - Issuance, Cancellation or Suspension

- (a) Every licence is subject to cancellation or suspension by the Commission for a period of time to be determined by the Commission at its discretion if, in the opinion of the Commission, the licence holder has violated any Order, policy or direction of the Commission or if, in the opinion of the Commission, the actions of a licence holder are detrimental to the best interests of the industry.
- (b) Before cancelling or suspending a licence, the Commission shall notify the licensee in person, by facsimile transmission or email and by registered mail, to appear before the Commission to address the alleged violation and, where appropriate, to show just cause why the licence in question should not be cancelled or suspended for a period of time. The licensee may be represented by legal counsel, an agent or himself. If the licensee, his legal counsel or agent, do not appear before the Commission at the hearing, the hearing shall proceed and the licensee shall be sent, by registered mail, a copy of the decision of the Commission.
- (c) If the Commission cancels or suspends a licence, the Commission shall notify the licensee or his legal counsel or agent by facsimile transmission or email and by registered mail.
- (d) If the Commission suspends or cancels a licence, the licensee may be subject to a Commission service fee, representing all or part of the expenses associated with the investigation, hearing and determination of the Commission leading to the cancellation or suspension of the licence.

6. Every Application for a licence, 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 dates of each year:

- (a) Producers who produce greenhouse crops – January 14th;
- (b) Other Producers - May 14th;
- (c) Designated Agencies, Commission Salespersons, and Wholesalers – March 1st.

7. Each application for a Producer's licence made in the name of a Person, farm, partnership, corporation or trust, must list on the licence application, the name of each owner, partner or shareholder, including percentage of shareholdings, as appropriate, and must identify the signing or voting authority for the farm, partnership proprietorship, corporation or trust, as the case may be, and must identify an individual who operates the farm.

8. Each licence issued by the Commission shall be issued to a named individual, or an individual and a corporation or trust jointly, or to an individual and a farm name jointly, or, in the case of a partnership, to the partnership, at least one of the partners



and an individual jointly.

9. No Producer, Producer Processor, Processor, Packing House, Commission Salesperson, 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 Commission Salesperson must obtain a Commission Salesperson licence.
  - (c) Any Person who plans to act or who acts as a Processor must obtain a Processor's licence.
  - (d) Any Person who plans to produce or who produces Regulated Product must obtain a Producer's licence.
  - (e) Any Person who plans to act or who acts as a Producer Processor must obtain a Producer Processor's licence.
  - (f) Any Person who plans to act or who acts as a Wholesaler must obtain a Wholesaler's licence.
  - (g) Any Person who plans to operate or who operates a Packing House must obtain a Packing House licence.

## **PART V                    AGENCIES**

1. Designated Agencies, the Regulated Crops each are authorized to handle, and associated geographic production areas, are listed in Schedule I to these General Orders.
2. An Agency shall maintain an office in one of the Districts in which it is licensed to operate.
3. Agencies may, with the approval of the Commission, issue Transport Orders for specific Regulated Product. If authorized by the Commission, Transport Orders may contemplate that Regulated Product will be received, washed, graded and marketed and the proceeds pooled.
4. A Packing House may, with the approval of the Commission, issue Transport Orders for specific Regulated Product to be transported to a destination, specified by an Agency so that such Regulated Product will be received, washed, graded and marketed to the account of an Agency.
5. Each Agency shall deduct the appropriate Commission service fee from the Producer's net proceeds as directed by the Commission for the Regulated Product which the Agency is appointed to handle, and each Agency shall hold such funds in trust and shall remit the funds to the Commission not later than the 20th day of the month following the sale.
6. The Commission may withdraw the authority of an Agency to market Regulated Product and may cancel or suspend an Agency licence and strike the name of an

Agency from the records of the Commission for failure to comply with an Order, directive or resolution of the Commission.

7. No Agency or Packing House shall receive or market any Regulated Product from a Person in respect of which there has occurred any violation of, or non-compliance with, any Orders or directions of the Commission unless specifically ordered by the Commission to do so.
8. No Agency or Packing House shall receive or market any Regulated Product from a Producer who does not have a current Producer Licence unless the net value of the Producer's shipments to date in the current year, including the shipment in question, does not exceed one thousand dollars (\$1,000).
9. No Agency or Packing House shall receive any Regulated Product from a Producer that was not grown by that Producer unless expressly authorized by the Commission.
10. Every Agency or Packing House shall be entitled to charge each Producer the service fees from time to time approved by the Commission for packing, cooling, grading, storing, washing, handling, transporting and Marketing the Regulated Product.
11. Any agreement between an Agency and a Producer, which addresses terms and conditions upon which the regulated product shall be provided by the Producer and sold by the Agency (e.g., a Grower Marketing Agreement) shall be reduced in writing and is subject to approval by the Commission.
12. All agencies shall cooperate with each other in the Marketing of Regulated Product and enter into inter-Agency agreements when directed by the Commission. This may mean that Agencies with an excess of Regulated Product will be required to sell Regulated Product to Agencies in need of Regulated Product. On-going communication between Agencies is encouraged by the Commission in this regard.
13. Each Agency is authorized to and shall conduct a pool or pools as directed by the Commission, for the distribution of all proceeds received from the sale of the Regulated Product. Each Agency shall distribute the proceeds of sale of each pool, after deducting necessary and proper disbursements, expenses and charges as permitted or required by the Commission.
14. All Agencies shall distribute the proceeds of sales not more than 20 days following the month during which the sales were made. If an Agency is unable, or does not wish to pay the proceeds within the specified time frame, it may apply to the Commission for a variance, stating the reasons for the request, the duration of the variance and the payment schedule requested. The Commission may approve, amend, or deny the request as it sees fit.
15. Prices for all Regulated Storage Crops must be approved by the Commission before coming into force or effect, unless otherwise authorized in writing by the Commission.

16. No Regulated Product shall be transported from one District to another except as directed by an Agency or unless the Regulated Product is transported by an exempted Producer.
17. All Agency facilities must meet minimum health standards of the municipality, district, area or city in which the facilities are located.
18. An Agency must have a valid business license and must be legally able to use any brand name it may adopt.

*Products of Unmarketable Quality*

19. An Agency or a Processor shall be entitled to refuse to accept or market any Regulated Product delivered to it, which in the opinion of the Agency or Processor, is not of marketable quality.
20. Any person who is aggrieved by the refusal of an Agency or Processor to accept or market Regulated Product may file a complaint with the Commission for a remedy and the decision of the Commission shall bind both the Agency or Processor and the aggrieved Person, subject to appeal provisions of the Act.
21. Any Person who is aggrieved by the manner in which Regulated Product is handled by an Agency or Processor may file a complaint with the Commission for a remedy and the decision of the Commission shall be binding on both the Agency or Processor and the aggrieved Person, subject to the appeal provisions of the Act.
22. Due to the perishability of some regulated products, a person filing a grievance under Sections 19, 20, or 21 of this Part, may request an expedited adjudication of their complaint and the Commission will make its best efforts to resolve the matter within the time constraints required.

**PART VI                    TRANSFER OF PRODUCERS BETWEEN  
AGENCIES**

1. Producers must apply in writing to the Commission by August 1<sup>st</sup> of any year for approval to transfer their shipments of product from one agency to another for the following calendar year. If the agencies involved in the proposed transfer agree to the transfer, then the Commission will be favourably disposed to the approval of the transfer.
2. If the parties affected by the proposed transfer do not agree on the proposed transfer, then the Commission will hold a hearing on the matter to determine if the transfer is in the best interest of the industry.
3. In special circumstances, the Commission may, at its discretion, transfer the shipment of product from one agency to another; or, if an existing agency is unwilling to accept a proposed transfer, the Commission may provide the producer with an exemption

from marketing through a designated agency. The simple desire on the part of a producer to market his or her product elsewhere will rarely constitute special circumstances within the meaning of this Order.

4. Any new or renewed contract between a grower and an agency must first be approved by the Commission prior to execution.
5. Applications from producers to transfer their product from one agency to another received by the Commission after August 1st of any calendar year will not be considered until the following calendar year due to the disruption of such late applications to the orderly marketing system.

*Procedural Guidelines for Re-directing Regulated Product*

6. Written submissions will be requested from the producer who has applied to the Commission for the transference of product from one agency to another agency; those written submissions must outline the reasons for the request and why a transfer order should be made. Documentation supporting the outlined reasons must be provided to the Commission. This process will be required regardless of whether all parties involved in the transfer are in favour of the transfer.
7. Notice of the application, including supporting materials, will be given to all affected agencies. Each agency will be given an opportunity to provide written submissions in response. A twenty-one day period (from the date of the agency's receipt of the application and supporting materials) will generally be sufficient for this purpose.
8. The application for the transference of product will be considered in light of the purpose of the Act and the Scheme and a decision will be made with regard to those purposes and with regard to the best interest of the industry.
9. Before the Commission makes a final decision a meeting will be held between the grower(s) and affected agencies to determine whether there is a possibility of re-directing product voluntarily and in cooperation with each other. This meeting will also be used as a vehicle for the parties to express their points of view and to provide any supplementary information to the Commission before it makes its decision.

**PART VII                    AGENCY RESPONSIBILITIES**

1. Each Agency marketing storage crops shall notify the Commission and obtain approval from the Commission for the establishment of any price or change in price.
2. Each Agency marketing storage crops shall file with the Commission a copy of any price list, local or export, and particulars of any sales other than at listed prices.
3. No pricing for storage crops below listed price can be made without the prior approval of the Commission.

4. Each Agency shall supply to the Commission as requested or required, details in respect to the application of Delivery or Production Allocations and Producer's individual shipments. These details are required to be supplied to the Commission within 60 days of the close of a pool period or in the case of storage and field crops, within 60 days of the close of a Delivery or Production Allocation period.
5. Each Agency shall provide pool settlement statistics showing quantities, price ranges and final pool prices to the Commission on request.
6. Each Agency shall provide any proposed contracts with Processors located in BC to the Commission for approval before finalizing the contract.
7. Each Agency shall file with the Commission a copy of their year end financial statements. A financial audit shall be undertaken if requested by the Commission.
8. Each Agency shall file a business plan or Marketing plan with the Commission upon request.
9. Each Agency shall file with the Commission all signed Grower Marketing Agreements with all Producers of Regulated Product shipped through that Agency by June 1st of each year.
10. Each Agency shall have a trace-back and recall system which adequately identifies and traces Regulated Product from the time it is specifically shipped by a particular Producer until it is received and purchased by a Wholesaler or Retailer.
11. Each Agency shall file with the Commission names of staff to be authorized to issue Transport Orders by April 1st of each year; any changes, which may occur subsequently, must also be filed.
12. Each Agency shall file with the Commission, for approval each year, a proposed list of fees or charges for Agency services provided to Producers for handling the Marketing.
13. Each Agency shall provide the Commission with any other information relevant to Agency or inter-Agency transactions as may be required by the Commission from time to time.
14. Each Agency shall notify the Commission of the date, time and location of the Agency's annual meeting.
15. Each Agency shall notify the Commission of the names of the Board of Directors and the officers of the Agency within 30 days of the Agency's Annual General Meeting.

## **PART VIII GRADING AND PACKING**

1. A wholesaler or Agency may sell only Regulated Product which meets at least a Canada No. 1 Grade, Canada No. 2 Grade, BC No. 1 or BC No. 2 Grade, or such other grade as the Commission may from time to time approve.
2. All Regulated Product shall be packed in Containers which comply with all regulations set out in the Canada Agricultural Products Act, RSC 1985, c. 20 (4th Supp.) or the Agricultural Produce Grading Act, R.S.B.C. 1996, c.11.
3. An Agency must receive approval from the Commission prior to marketing regulated product in non-standard containers. If approval is granted, product in non-standard containers may only be marketed in British Columbia.

## **PART IX GENERAL PROHIBITIONS**

1. No person shall transport a Regulated Product unless it has been packed in a container authorized by a designated Agency or by the Commission.
2. No wholesaler or Commission Salesperson shall buy, accept or receive the Regulated Product from any Person other than those Agencies licensed and designated by the Commission pursuant to these Orders.
3. No Retailer located in BC shall buy, accept or receive the Regulated Product from any Person other than a Licensed Wholesaler; or, a designated and licensed Agency; or, a Producer that has received written permission from the Commission to supply the Retailer.
4. No Processor shall sell or offer for sale or supply the Regulated product except in a processed or manufactured form.
5. No Processor shall buy, accept or receive Regulated Product from any Person other than a Wholesaler licensed by the Commission, an Agency designated and licensed by the Commission, or a Producer licensed by the Commission.
6. No Person, Producer or Processor, unless otherwise ordered by the Commission, shall grow, deliver, receive, accept or market Regulated Product for Processing, freezing, canning or preserving in any way unless there is a signed Commission approved Processing Crop contract which complies with all Commission Orders; such a contract shall be in compliance with and shall not deviate from the Master Contract negotiated for the Regulated Product in question and shall include a service charge.
7. No Person shall sell, offer to sell, supply or deliver the Regulated Product to any Person other than an Agency, or such other Person as the Commission may direct or authorize, with the exception of sales to a Consumer by a Producer.

8. No Person other than a member or employee of the Commission shall move, destroy, sell or offer for sale any Regulated Product on which there has been put a detention tag or seizure tag, or with respect to which a notice of seizure has been given by any member or employee of the Commission or individual authorized by the Commission to effect such seizure, without the written authority of the Commission.
9. No Producer or Agency shall sell or offer for sale Regulated Storage Crops and no Person shall buy Regulated Storage Crops at a price less than the minimum price fixed by the Commission from time to time for the variety and grade of the Regulated Product offered for sale, sold or purchased, unless authorized by the Commission.
10. No Processor, or other authorized receiver of regulated product for Processing, shall receive or pay for any Regulated Product unless the Producer is currently registered with the Commission and is party to a current Commission approved Processing contract.
11. No Producer, shall market or transport any Regulated Product unless the Producer is currently licensed with the Commission, except as expressly authorized by the Commission pursuant to Section 8 of Part IV.
12. No Producer shall produce or ship Regulated product without a Delivery or Production Allocation for the product in question, unless otherwise authorized by the Commission.

## **PART X                    EXEMPTIONS**

1. The power to grant an exemption may be delegated by the Commission to an officer or employee of the Commission, except as it affects the granting, suspension or cancellation of a licence or the affixing of licence fees, and all such exemptions are subject to ratification by the Commission.
2. A Producer may sell to any Person for use and consumption by that Person and that Person's household, and such Person may purchase from a Producer, any Regulated Product (except a Regulated Product excluded from this section by resolution of the Commission) provided that:
  - (a) the Regulated Product is offered for sale at or by:
    - (i) an Agency; or
    - (ii) a Producer holding a current Producer's licence; or
    - (iii) a stall rented and operated by a Producer holding a current licence from the Commission at a recognized Municipal Market with approval from the Commission;
  - (b) the Person is purchasing the Regulated Product only for personal or household use and consumption and not for resale, the responsibility for ensuring which shall be on the Producer;
  - (c) the Regulated Product meets or exceeds Canada No. 2 Grade or BC Grade No. 2;
  - (d) the Producer's privilege to sell such Regulated Product under this Section has

not been withdrawn by the Commission because it has found or suspects that the Producer has, or intends to abuse the privilege or, in the opinion of the Commission, has failed to comply with any general or specific Order of the Commission; and

- (e) the maximum amount of all Regulated product sold to any such Person by a licenced Producer in any day does not exceed 300 pounds each of storage crops and 60 pounds each of greenhouse crops.
3. Persons seeking an exemption under this Part must advise the Commission of any contractual relations which may be affected; unless special circumstances exist, this Part will not be applied in a manner which abrogates existing contractual relations.
  4. A Person who purchases Regulated Product in accordance with the provisions of Section 3 of this Part may transport the Regulated Product so purchased from the place of purchase to his residence without obtaining a Transport Order.
  5. A Producer may apply to the Commission for permission to sell or offer for sale the Regulated Product to a Person other than an Agency, or an exempted Person as described in Section 3. If the Commission gives the Producer permission, subject to such terms and conditions as the Commission may prescribe, such Producer may sell and offer for sale or supply the Regulated Product to such Person and such Person may buy, accept and receive the Regulated Product from such Producer. Licensees granted an exemption from the requirement of marketing one or more regulated products through a designated agency are listed in Schedule V to these Orders.

## **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.

#### *Processing Crop Master Committee*

8. 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.
9. The Processing Crop Master Committee shall meet at the request of either, the Processors, the Producers, or the Commission.
10. The Processing Crop Master Committee shall make recommendations to the Commission on all matters included in this Part and on amendments to the Processing Crop Master Contract. 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*

11. Processing Crop Negotiating Committees shall be established by the Commission for each of the regulated Processing Crops 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.
12. Processing Crop Negotiating Committees shall determine the terms and conditions of the contract for each regulated Processing Crop.

#### *Processing Crop Negotiating Committee Procedures*

13. 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:

- (a) peas, bush beans, corn, and cole crops by March 31;
- (b) strawberries by June 1.

14. 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.
15. 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*

16. 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 sub-committee 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.
17. 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. 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*

18. Every contract made by the authority of this Part shall make reference to this Part and to the Processing Crop Master Contract and shall be consequentially amended by any changes made to this Part or to the Master Contract.
19. 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.
20. 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.
21. 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. 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.

## **PART XII COMMISSION ELECTION PROCEDURES**

### *Electoral Structure, Election Procedures, and Transitional Measures*

1. The BC Vegetable Marketing Commission shall consist of 8 producer members elected from amongst themselves plus an appointed Chair. The 8 producer members shall be elected as follows:

Greenhouse Tomato Producers	District I and District II	1 member
Greenhouse Pepper Producers	District I and District II	1 member
Greenhouse Cucumber Producers	District I and District II	1 member
Greenhouse Vegetable Producers	District III	1 member
Storage Crop Producers	District I	2 members
Storage Crop Producers	District II and District III	1 member
Processing Crop Producers	District I	1 member

2. Elected Members shall hold office for two year terms. The term of the appointed Chair shall be set by the Provincial Government.
3. To transition to the new structure the Commission will hold elections for 4 positions in 2004 with the balance to be completed by March 31 2005. Commissioners representing positions not subject to elections in 2004 shall continue to hold office until March 31 2005. Commissioners elected in 2004 will serve 16 approximately months before their terms expire. After the transition period, all terms will be for a two year period.
4. 2004 Transitional Election Schedule

Commodity	District(s) Represented	Election Year	Term Start	Term End
Tomatoes	Districts I & II	2004	Dec. 1 '04	March 31 2006
Peppers	Districts I & II	2004	Dec. 1 '04	March 31 2006
Cucumbers	Districts I & II	2005	April 1 '05	March 31 2007
Greenhouse Crops	District III	2005	April 1 '05	March 31 2007
Storage Crops (1)	District I	2004	Dec. 1 '04	March 31 2006
Storage Crops (2)	District I	2005	April 1 '05	March 31 2007
Storage Crops	Districts II & III	2004	Dec. 1 '04	March 31 2006
Processing Crops	District I	2005	April 1 '05	March 31 2007

### *Election Procedures*

5. The Commission shall appoint an Independent Elections Officer (IEO) to oversee all

election procedures and to certify the results.

6. The Commission shall establish a schedule of Election, including the deadline dates to receive nominations and a deadline date to receive election ballots.
7. All Licensed Producers, as shown on the Commission's Register of Producers, shall be mailed a "Notice of Election" describing the election procedures and identifying forthcoming vacancies by sector.
8. All commercial producers, licensed by the Commission, are eligible to vote and to stand for election. A producer is eligible to vote and stand for election in a commodity category if he holds a Delivery or Production Allocation in that commodity category.

To stand for election, a commercial producer must signify his agreement to be a candidate and must be nominated by 3 or more commercial producers who produce the appropriate commodity in the District(s) to be represented.

9. A "Nomination Form" to officially nominate a candidate for election to the Commission shall be mailed to all licensed producers. The form shall include instructions on its use and the date by which a completed form must be received.
10. The Commission shall distribute lists of licensed producers to each agency as appropriate; asking each to confirm the producer has marketed a minimum of \$5,000 worth of regulated product through the Agency in the preceding 12 months.

Any licensed producer not confirmed as a commercial producer by an agency, and all producers exempted from the requirement of marketing through a designated agency, shall receive a form requiring each to confirm he has marketed a minimum of \$5,000 worth of regulated product as directed by the Commission in the preceding 12 months.

Subject to verification by the Commission, all producers confirming their eligibility as a commercial producer shall be entitled to vote and no producer who is required to confirm his eligibility as a commercial producer and failing to do so shall be entitled to vote.

After the transitional (fall 2004) election, any producer who is subsequently excluded from the list of eligible voters shall, in the first instance of such exclusion, be so advised and be given the opportunity to appeal the exclusion decision. All relevant information, including an appeal from a producer, shall be reviewed by the IEO who shall adjudicate the producer's eligibility to vote. If the IEO determines the producer should have been extended the right to vote, the list of eligible voters shall be amended by adding the producer's name and the named producer shall have the right to vote in the current election.

11. On the nomination deadline date, the IEO shall confirm the eligibility of the

nominees to stand for election. All nominees shall be informed of the decisions of the IEO.

12. If in any sector, only 1 eligible candidate is nominated, the IEO shall declare that nominee elected by acclamation.
13. The IEO shall prepare the ballots and shall ensure the names of all eligible candidates for the appropriate sector are listed on the ballot.
14. Ballots shall be mailed, by the IEO, to all eligible voters with instructions as to how to complete them and the deadline date by which they must be received.

A “counterfoil” envelope shall be included with each ballot. A “counterfoil” envelope includes a detachable flap on which each voter must sign his name.

15. All voting will be conducted by mailed ballots and all confirmed commercial producers in the appropriate sector shall receive ballots.
16. The IEO must confirm that each Counterfoil envelope is signed by an eligible voter. When so confirmed, the counterfoil flap is removed and the unidentified ballot is placed in the ballot box.
17. Candidates shall be informed of the date, time and location for counting the ballots and given the opportunity to be present, or to have a representative present to observe the counting of the ballots.

The candidate(s) with the most votes is declared elected.

18. The IEO shall report the results of the election to producers and to the FIRB.

#### *Expiry*

19. These rules and procedures shall expire on April 30, 2006. The Commission will undertake a review at that time before submitting a new Elections Policy and Procedures Policy to the BC Farm Industry Review Board.

### **PART XIII PROCEDURES FOR THE REGULATION OF PRODUCE**

1. On receipt of a request to regulate a product, not currently regulated, from the majority of Producers involved in the production of the crop in question, or their representatives, who hold the majority of production, the Commission may, at its discretion, schedule a General Meeting not more than 30 days following receipt of the request. If such a meeting is scheduled, the Commission, at its discretion may proceed as follows:

- (a) A notice shall be drafted which sets out the time and place of the meeting as well as an agenda outlining the issues to be discussed at the meeting, including: pricing, Delivery or Production Allocations, packing, Producers' costs, intraprovincial, interprovincial and export trade, designated Agencies and any other matters of relevance.
  - (b) The Notice of Meeting and the Agenda shall be delivered to:
    - (i) all known Producers of the product in question;
    - (ii) Presidents of Agencies who would become involved if regulation of the product were approved;
    - (iii) representatives of the British Columbia Ministry of Agriculture, Fisheries & Food; and
    - (iv) any other interested party of whom the Commission is aware.
  - (c) The Notice of Meeting will confirm that all interested parties will have an opportunity to make oral or written submissions to the Commission as specified by the Commission.
2. At the meeting referred to in Section 1 of this Part, if desired by a majority of Producers in attendance at the meeting who produce the product in question, a committee may be struck to investigate and review the question of regulation and the concerns surrounding it.
- (a) If a majority chooses to strike a committee, the committee will, within 60 days report back to the Commission on its findings in writing and will distribute the report to all interested parties.
  - (b) Interested parties will have 30 days to respond to the report, in writing, to the Commission.
  - (c) At the end of the 30 day response period, a final meeting may be scheduled to discuss the report and interested parties will have a further opportunity to make oral or written submissions as specified by the Commission. The meeting will be held at a location convenient to the majority of interested parties and will take place before a quorum of the Commission. At this meeting, the Commission will hear oral submissions from interested parties and will identify the key issues surrounding the question of regulation. The Commission may collect further data it considers necessary including:
    - (i) the acreage/square meters currently planted by various Producers if applicable; and
    - (ii) the acreage/square meters planted or the recorded production in the immediately preceding Crop Year.
3. If it is not the wish of a majority of Producers in attendance at the initial meeting to strike a committee to review the question of regulation, all interest parties will be given an opportunity to express their concerns and to provide the Commission with whatever information is deemed relevant and of assistance. The Commission may choose to collect further data as necessary including that set out in Section 2 of this Part.
4. Not less than seven (7) days from the final meeting, the Commission will deliver to all

Producers who produce the crop in question:

- (a) a ballot; and
  - (b) information explaining correct voting procedures, including when, where and to whom the voters must return the ballot.
5. In order for the vote to be counted, the ballot must be returned to the designated Person named by the Commission, in person or by mail, not later than the specified date.
  6. Should there be any discrepancy between the acreage/square meters currently planted by a Producer as reported by the Producer and the information collected by the Commission, the Commission will meet with the Producer to resolve the discrepancy. Similarly, should there be any discrepancy between the acreage/square meters planted in the immediately preceding Crop Year as reported by the Producer and the information collected by the Commission, the Commission will meet with the Producer to resolve the discrepancy. The Commission retains the discretion to measure the acreage/square meters according to its own formula should agreement not be reached with a Producer.
  7. After considering the various written and oral submissions of the interested parties as well as the results of the vote, a quorum of the Commission will meet in order to decide whether the commodity in question should be regulated.
  8. If over 70 percent of those Producers who voted represent at least 70 percent of the tonnage produced or acreage/square meters planted, the Commission will be favourably disposed toward regulation. However, the Commission retains the discretion to regulate or not to regulate, notwithstanding the results of the vote.
  9. The Commission's final decision on whether or not to regulate a commodity will be directed by the statutory mandate to promote, control and regulate the production, transportation, packing, storage and Marketing of the Regulated Product in a manner which encourages the production and orderly Marketing of high quality product.
  10. The Commission will attempt to follow these procedures as closely as possible, but it retains the discretion to alter these procedures according to the specific concerns and practical implications arising from the particular situation before it.

## **PART XIV PROCEDURES FOR DESIGNATION OF AGENCIES**

1. The purpose of this Part is to facilitate and direct:
  - (a) the designation and appointment of new Agencies; and
  - (b) the conduct of periodic reviews of existing Agencies.
2. The designation of new Agencies and the review of existing Agencies may involve combinations of meetings scheduled by the Commission in its supervisory capacity and/or hearings conducted by the Commission to grant, review or revoke Agency

designations.

*Designating New Agencies*

3. Any business that wishes to be designated as an Agency shall apply to the Commission in writing. The application shall consist of a detailed business plan outlining the following considerations:
  - (a) the proposed Agency's short and long term goals;
  - (b) the rationale for establishing the proposed Agency including such factors as:
    - (i) an indication of marketplace requirements and potential requirements that the proposed Agency will address, including customer and Producer support;
    - (ii) a description of the benefits to the primary producers of Marketing the Regulated Product through the proposed Agency;
    - (iii) anticipated benefits to the industry as a whole;
    - (iv) possible consequences, beneficial or adverse, to other existing Agencies.
  - (c) the type of Regulated Product intended to be marketed;
  - (d) the commencement date of the proposed Agency;
  - (e) the method by which, and time limits through which, existing Producers may transfer to the proposed Agency;
  - (f) steps taken to meet with, and seek the cooperation of, existing Agencies;
  - (g) the identities of the principals of the proposed Agency;
  - (h) the identities of all shareholders and/or individuals with a financial interest in the proposed Agency;
  - (i) letters of commitment from Producers who wish to market Regulated Product through the proposed Agency;
  - (j) a statement of financial worth, along with a forecast of the anticipated earnings, cash flow and sales forecasts to indicate the fiscal viability of the proposed Agency's operations;
  - (k) a business licence;
  - (l) the facilities out of which the proposed Agency will operate, including any office, warehouse or other facility;
  - (m) the management and staff complement of the proposed Agency, including the marketing experience and skill level of staff;
  - (n) the steps the proposed Agency wishes to take in relation to quality assurance, particularly with respect to such matters as:
    - (i) food safety including an acceptable trace-back and recall system for Regulated Product sold;
    - (ii) grade compliance;
    - (iii) handling and distribution;
    - (iv) record keeping;
    - (v) legal requirements; and
  - (o) an assessment of market supply and demand in areas where the proposed Agency wishes to market the Regulated Product;
  - (p) the names of customers who wish to purchase Regulated Product from the proposed Agency;



- (q) letters of commitment from proposed customers who wish to market Regulated Product from the proposed Agency;
- (r) letters of reference from financial institutions which support the establishment of the proposed Agency;
- (s) details of a proposed contingency plan which addresses how Producers would be paid for their product if the Agency encounters financial difficulties. This contingency plan may include the posting of a bond, a letter of credit or other security; and
- (t) details of a label or product identification system whose objective is not to create confusion with other Agencies or product identifications.

*Commission's Internal Investigation of a Proposed Agency Application*

4. Once a completed Agency application is received by the Commission, the Chair of the Commission shall designate a five-member panel of the Commission ("Panel") to consider the Agency application.
5. This Panel will meet with the proposed Agency in its supervisory capacity to discuss its Agency application. At this meeting, the proposed Agency will be required to present its application and to disclose all information relevant to its application.
6. Following this meeting, and three weeks prior to a hearing where interested parties within the industry will be given an opportunity to be heard, the proposed Agency will prepare a briefing document for distribution to interested parties; this briefing document shall be filed with the Commission who will then distribute it to interested parties. This briefing document must address all matters contained in the Agency application; only information of a confidential, competitive nature may be omitted.
7. In conjunction with the proposed Agency, the Commission shall establish a date for the public hearing and will distribute a Notice of Hearing to all interested parties.
8. The issues to be considered by the Commission at this hearing will include, but will not be limited to:
  - (a) whether there is a market requirement for another Agency and whether the designation of another Agency would benefit the industry as a whole;
  - (b) assuming there is a requirement for another Agency, whether the evidence as a whole supports the designation of the specific Agency in question;
  - (c) whether the proposed Agency has the expertise to operate as an Agency;
  - (d) whether the proposed Agency intends to follow Commission Orders and the enabling legislation and regulations;
  - (e) where applicable, whether the proposed Agency intends to apply for approval to increase the Marketing of Regulated Product and/or new Regulated Product; and
  - (f) whether the proposed Agency has Producer support.

*Criteria for Evaluating Proposed and Designated Agencies*

9. The Commission will consider the following criteria when recommending new Agencies and reviewing existing Agencies:
  - (a) whether all criteria and terms and conditions outlined above in this Part have been satisfied;
  - (b) whether a potential conflict of interest exists in the appointment of an Agency by the Commission; if the Commission determines that a potential conflict of interest exists, it will refer the matter to the BC Farm Industry Review Board;
  - (c) whether existing Agencies have been given adequate notice of the proposed Agency application, sufficient to enable submissions to the Commission of:
    - (i) oral and written comment and/or objections;
    - (ii) proposals for the coordination of the existing Agencies with the proposed Agency;
  - (d) whether affected Producers have been given the opportunity to address the proposal on the same basis as existing Agencies;
  - (e) the adequacy of the proposed contingency plan;
  - (f) whether the proposed Agency is aware of the Commission's General Orders and regulations concerning pricing, fees, levies, accounting requirements, record keeping and other related matters; and
  - (g) whether the proposed Agency is willing to cooperate with existing Agencies and with the Commission to ensure that the Commission is able to carry out its governance responsibilities.

#### *Reviewing of Existing Agencies*

10. As considered necessary by the Commission in its discretion, a letter will be sent to a designated Agency or Agencies requesting a meeting to discuss ongoing operational issues which may be affecting the industry.
11. Following delivery of this letter, a meeting shall be scheduled with the Agency in question and an agenda will be drafted in cooperation with the Agency to address issues which may be of concern both to the Commission and the Agency. The Commission may review the Agency's operations at this time and may request further documentation from the Agency concerning volume of annual sales, grading, quality of product sold, and overall expenses of the Agency, as well as any issue the Commission deems relevant to the conduct of its responsibilities.
12. In cases where the Commission is of the view that the viability of an Agency is at serious risk, the Agency shall develop a plan, as directed by the Commission, to address issues that require attention.
13. At any time, when the Commission has serious concerns about the viability of an Agency, a hearing may be scheduled, at the discretion of the Commission, which will address whether the Agency designation should be continued, amended or revoked.
14. The designation of an Agency by the Commission is not a warranty concerning any aspect of the Agency's business, including the ability of the Agency to pay for products marketed by it.

15. The designation of an Agency is a privilege under the Act. It is non-transferable and it is not an approval in perpetuity. The designation of any Agency may be reviewed by the Commission upon any material changes in the conditions giving rise to its initial approval.
16. Any sale of all or a portion of an Agency by way of sale of assets or shares, must receive approval from the Commission. Without prior approval, the Agency designation in question will terminate.

**PART XV                    MARKETING OF "NEW" OR ADDITIONAL  
REGULATED PRODUCT BY EXISTING  
AGENCIES**

1. No new or additional Regulated Product shall be marketed by existing Agencies without Commission approval.
2. An Agency seeking to market new or additional Regulated Product shall submit a Business Plan covering a period of time specified by the Commission which addresses matters relating to promotion, market development and planned expansion. In the case of agencies marketing regulated greenhouse crops, this requirement will occur within the Procedures outlined under General Orders Part XVI and XVIII.
3. At its discretion, the Commission may determine whether a hearing will be held, in either oral or written form, concerning the application by an existing Agency to market new or additional Regulated Product. In exercising its discretion, the Commission will consider:
  - (a) if and how other existing Agencies, if any, will be affected;
  - (b) how the Commission will notify interested parties of the application and its decision to approve or dismiss the application.
4. The Commission shall consider:
  - (a) what benefits, if any, not currently available to Producers will accrue to them if new or additional Regulated Product is marketed by the Agency;
  - (b) whether the Agency has sufficient staff with the necessary experience to market the new or additional Regulated Product;
  - (c) whether a market exists for the new or additional Regulated Product; and
  - (d) whether the new or additional Regulated Product would enhance orderly Marketing.

**PART XVI                    PRODUCTION AND DELIVERY  
ALLOCATIONS– GENERAL**

1. The purposes of the Delivery and Production Allocation Procedures contained in Part XVII and Part XVIII are to identify the principles and guidelines by which the

Commission will support and enhance a regulated marketing system for the intraprovincial, interprovincial and export trade of regulated crops. These purposes include:

- a) The preservation of market access for Producers who have served the market over time.
  - b) The provision of access for new entrants.
  - c) The desire to create and maintain long-term, sustainable, food safe, farming and greenhouse operations.
  - d) The provision of opportunity for industry growth.
  - e) The provision of an orderly marketing system.
2. In the event a Producer or any other Person realizes a benefit or advantage in regard to the application of the Procedures contained in Part XVII and Part XVIII, or the utilization of or access to Delivery or Production Allocations, that are not consistent with the object and purpose of these Procedures, the Commission may deny such Producer or Person that benefit or advantage and may interpret these Procedures in a manner consistent with the object and purpose of the policy as articulated in section 1 of this Part.
  3. Delivery and Production Allocations are a privilege granted by the Commission under a Producer's license. Delivery and Production Allocations shall have no monetary value.
  4. Only Persons eighteen (18) years of age and over, and holding a valid Producer's licence from the Commission may hold or be assigned Delivery or Production Allocations.
  5. Only Persons holding Canadian citizenship or Permanent Resident Status may hold Delivery or Production Allocations. If the applicant for a Delivery or Production Allocation is a corporate applicant, then 51% common beneficial ownership must be retained by a Person or Persons holding Canadian citizenship or Permanent Resident Status.
  6. A change of name on a registration or a Delivery or Production Allocation does not necessarily constitute a transfer of a Delivery or Production Allocation and therefore in the case of storage crops does not necessarily become subject to a reduction as described in section 13(a) of Part XVII.
  7. A change of name on a registration of a Delivery or Production Allocation does not negate any Grower Marketing Agreement between a Producer and an Agency.
  8. Delivery or Production Allocations shall not be permitted to be transferred between Districts.

**PART XVII           PROCEDURE FOR DETERMINING  
DELIVERY ALLOCATION FOR ROOT CROPS  
OR STORAGE CROPS AND FIELD CROPS**

1. This Part covers Storage Crops and Field Crops as defined in Part I (5).
2. Only Regulated Product shipped through an Agency of the Commission shall be used for the calculation of Delivery Allocation levels or adjustments for Crops under this Part.
3. Delivery Allocations shall be established on a rolling 5-year average for Storage Crops and a rolling 3-year average for Field Crops, unless otherwise directed by the Commission.
4. Subject to section 5 and 6 in this Part, no Producer shall ship a quantity of Storage or Field Crops in excess of their Delivery Allocation , unless otherwise authorized by the Commission.
5. Delivery Allocation within a period does not commence until supply exceeds demand. Any shipments made within a Delivery Allocation period prior to commencement of Delivery Allocation will count towards the building of Delivery Allocation.
6. After one round (100 percent) of all Delivery Allocations has been shipped for any Storage Crop or Field Crop in any Delivery Allocation period, Delivery Allocations shall be rolled over and begun again.
7. Where a Producer is called to provide Regulated Product and cannot or will not supply the Regulated Product demanded by the market, that Producer will be bypassed and will be deemed to have shipped the quantity of Regulated Product requested, and other Producers will be contacted. Producers holding a Delivery Allocation will be contacted first and new Producers will be contacted if Producers holding a Delivery Allocation cannot supply the Regulated Products requested.
8. The Commission shall establish a Storage Crop Delivery Allocation Bank consisting of the accumulated “reductions” referred to in Section 13(a) of this Part. The Commission may grant a Delivery Allocation to a Producer from the Storage Crop Delivery Allocation Bank upon receipt of a specific request when he has the support of the Agency and it is deemed to be in the best interest of the industry.
9. Regulated Product produced outside of British Columbia shall not be used to fill or increase a Delivery Allocation for a Producer.
10. Regulated Product produced by one Producer may not be used to fill or increase a Delivery Allocation of another Producer.

11. Unless there are special circumstances, if a Producer ceases production for two consecutive years, then the Commission shall rescind their Delivery Allocation .
12. If a Producer is found guilty of violating a Commission Order, the Commission shall have the authority, in addition to any other measures set out in these orders, to suspend a Producer's Delivery Allocation for a period of time. Sales made during the period of violation will not be allowed to build Delivery Allocation.

*Transfer of Delivery Allocations*

13. Subject to the approval of the Commission, Delivery Allocations may be transferred on the following terms and conditions:
  - (a) except as described in part (b), transferred Delivery Allocations shall be reduced by 10 percent.
  - (b) transfers made between immediate relatives or transfers made on the sale or lease of substantially all of the assets of a licensed farm including, the land and equipment, may be approved without reduction.
14. Except in extenuating circumstances, transfer of a Delivery Allocation by any Producer can only take place once a year and is subject to the following conditions:
  - (a) all applications for transfer of a Delivery Allocation must be on a form prescribed by the Commission;
  - (b) all applications for transfer of Delivery Allocations must be filed with the Commission not later than March 15 each year; and
  - (c) all approved transfers of Delivery Allocations will be effective for the Crop year in which the transfer is approved by the Commission.
15. When transferring a Delivery Allocation, only that portion of a Delivery Allocation that has been earned can be transferred. Earned Delivery Allocation constitutes Delivery Allocation based on actual shipments and shall not include any Delivery Allocation that has been previously granted by the Commission.
16. In the case of potatoes only, to qualify for transfer, the minimum earned Delivery Allocation must total an aggregate ten tons when all categories and Delivery Allocation periods are combined.
17. Any Delivery Allocation earned or acquired must be utilized by the licensed Producer for a minimum of two (2) years before it may be transferred, except in extenuating circumstances.
18. Delivery Allocation periods for the Crops shall be as follows:

**FRESH AND COUNT SIZE POTATOES**

"A" Period Start of new crop to July 31<sup>st</sup>

"B" Period August 1<sup>st</sup> to Sept. 30<sup>th</sup>

"C" Period October 1<sup>st</sup> to January 31<sup>st</sup>

"D" Period February 1<sup>st</sup> to end of old crop

**CONTRACT POTATOES**

Period 1 August 1<sup>st</sup> to September 30<sup>th</sup>

Period 2 October 1<sup>st</sup> to April 30<sup>th</sup>

Period 3 May 1<sup>st</sup> to July 31<sup>st</sup>

**RUTABAGAS**

"A" Period Commencement of crop to July 15th

"B" Period July 16th to August 31st

"C" Period Sept. 1st onward

**BEETS; CABBAGE; CARROTS; ONIONS; PARSNIPS; WHITE TURNIPS;  
LETTUCE; and CELERY all Monthly**

**PART XVIII      PROCEDURES FOR ASSIGNING PRODUCTION  
ALLOCATIONS FOR GREENHOUSE CROPS  
ALL DISTRICTS**

**SUB-PART A – GENERAL (also refer to Part XVI)**

1. Unless previously exempted, this Part applies to all greenhouse tomatoes, cucumbers, peppers and butter lettuce, and any additional crops that may be designated by the Commission, which are grown in British Columbia.
2. Production Allocations for Greenhouse tomatoes, cucumbers, peppers, butter lettuce and any additional Regulated Product as designated, will be assigned by square metre area of greenhouse.
3. A Producer may use up to 500 sq. metres of a Production Allocation approved for a Regulated Product for alternative use without affecting the approved Production Allocation. Alternative use of a Production Allocation in excess of 500 sq. metres will require application to and approval by the Commission.
4. All applications for a greenhouse Production Allocation or transfers of a Production Allocation, must be received by the Commission on a form prescribed by the Commission and will be considered for approval by the Commission following consultation with the marketing agency(s), that have been designated and licensed by the Commission to market regulated greenhouse crops. Applications for a Production Allocation in District III will be considered following consultation with the Interior Greenhouse Grower's Association in addition to designated agencies in the District.

5. Regulated Product grown without prior authorization of the Commission and shipped either through or outside an Agency cannot be used to determine a Production Allocation.
6. All Production Allocations are privileges that may be granted, suspended or cancelled by the Commission. Production Allocations are granted by the Commission under a Producer's Licence. Production Allocations shall have no monetary value.
7. If a Producer ceases production of all or part of their Production Allocation for one year, that portion of the Production Allocation not produced will be cancelled. However, a Producer may make application in writing, in advance, to preserve a Production Allocation and the Commission may approve the request following industry consultation, and if the Commission considers that approving the request is in the best interests of the industry.
8. Approval of any new or additional Production Allocations shall expire if commercial planting from the new approved Production Allocation Area has not commenced within 18 months of the date of Commission approval. Upon application in writing and upon the recommendation of the sponsoring agency, if applicable, the Commission may agree to extend this deadline if there are extenuating circumstances (such as those described in Sub-Part C, clause 10(a)).
9. Any Production Allocation assigned to a Producer must be utilized by the Producer for a minimum of two (2) years before it may be transferred to another Producer, with Commission approval, unless the Commission determines in writing that there are extenuating circumstances. Any Production Allocation held by a Producer for a minimum of two (2) years, shall, upon the sale of the greenhouse and subject to the written approval of the Commission, be transferred to the purchaser of the greenhouse. It is a recognized principle that Production Allocations remain with the greenhouse, not with the Producer.
10. If the Commission determines that a Producer has violated any Order, policy or direction of the Commission, the Commission may exercise any of the powers set out in Part III of these General Orders and may, in addition, set and collect a levy from the Producer for the purposes of equalizing or adjusting returns to other producers who have been impacted by the violation.
11. Producers who have had their Class I License suspended or cancelled as a result of a violation of Commission orders, policies or directions, will lose their eligibility for producer initiated Production Allocation transfers between crops, or new Production Allocations until such time as they have obtained a Class I Producer's License.
12. If the Commission determines that an Agency has violated any Order, policy or direction of the Commission, the Commission may exercise any of the powers set out in Part III of these General Orders and may, in addition, set and collect a levy from the Agency for the purposes of equalizing or adjusting returns to other agencies or producers who have been impacted by the violation.



13. An Agency must hold a Class I or Class II License to be eligible to sponsor Production Allocation transfers between crops, or new Production Allocation applications.

**SUB-PART B – ROLE OF THE DESIGNATED AGENCIES AND EXEMPTED PRODUCERS IN THE TRANSFER OF EXISTING PRODUCTION ALLOCATIONS OR THE ASSIGNMENT OF NEW PRODUCTION ALLOCATIONS**

1. All applications for transfer of a Production Allocation between crops, or assignment of a new Production Allocation, must be sponsored by an agency designated by the Commission that currently holds a Class I or Class II Agency License, unless the application is from a Producer who has been exempted by the Commission from marketing through a designated agency.
2. If a Producer is making an application for a Production Allocation transfer between greenhouse crops; or, if a producer is making an application for the assignment of a new Production Allocation, then the application must be submitted for approval, jointly with the sponsoring agency, if applicable, by the following dates;
  - a) District I & II - August 31<sup>st</sup> of the current year for Production Allocation transfers to take effect the following year.
  - b) District I & II – October 15<sup>th</sup> for a new Production Allocation to commence production the second season following.
  - c) District III - August 15<sup>th</sup> of the current year for Production Allocation transfers to take effect the following year.
  - d) District III – June 1<sup>st</sup> for new Production Allocations to commence production the following season.
3. If a Producer is making an application for a Production Allocation transfer between crops and the transfer is to take place during the season, for production that same season, then the application may be submitted for approval jointly with the sponsoring agency, if applicable, at any time, and the Commission shall undergo its normal due diligence prior to any approvals.
4. All new Production Allocations or transfers of Production Allocations between crops including certified organic Production Allocations will be based on demonstrated market demand, and historical performance as assessed by each Agency, or exempted producer and submitted to the Commission. The Commission will review the submission(s) individually and in the aggregate and will either accept the submission(s), request additional information or reject an Agency(s), or exempted Producer's submission. An assessment of demonstrated market demand and historical performance shall be conducted by each Agency or exempted Producer, at the Agency's or exempted Producer's cost, and shall be submitted to the Commission.

The assessment of demonstrated market demand should address the following matters:

- a) Assessment of previous shortages in requirements;
  - b) Assessment of market trends and opportunities;
  - c) Estimates of future requirements;
  - d) Evidence of growth in the Production Allocation category, where applicable (not applicable to exempted Producers);
  - e) A comparison of the history of net grower returns where applicable (not applicable to exempted Producers);
  - f) Projected impact to existing grower returns within the agency and within the other agencies (not applicable to exempted Producers); and
  - g) Demonstrated marketing and distribution efficiency.
5. If a designated agency has received applications for new Production Allocations or transfers of Production Allocations between crops, in excess of its demonstrated market demand, and they are unable to reconcile the allocation or transfer requests amongst their Producers, then they shall refer the applications to the Commission for decision in accordance with Subpart C of this Part.
  6. Each agency in District I & II shall establish a process to allocate pepper colour and quantities among their Producers of greenhouse peppers and complete the process by September 15<sup>th</sup> of each year.

### **SUB-PART C - ROLE OF THE COMMISSION IN THE TRANSFER OF EXISTING PRODUCTION ALLOCATIONS OR THE ASSIGNMENT OF NEW PRODUCTION ALLOCATIONS**

1. The Commission shall notify all interested parties, including; agencies, and new, existing, or exempted Producers, 30 days prior to the application deadlines in each District that the Production Allocation process is commencing.
2. When required, the Commission will endeavour to undertake an independent market assessment annually in preparation for applications for Production Allocation transfers or new Production Allocations.
3. Following the June 1<sup>st</sup> deadline for District III Production Allocation applications, the Commission will notify all interested parties in District III of the applications received, prior to commencing the approval process. The Commission will endeavour to complete the Production Allocation process for District III by July 15<sup>th</sup> annually.
4. Following the August 31<sup>st</sup> deadline for District I & II Production Allocation transfer applications, and the October 15<sup>th</sup> deadline for District I & II Production Allocation applications; the Commission will notify all interested parties of the applications received prior to commencing the approval process. The Commission will endeavour to complete the Production Allocation approval process within 21 days of the

application deadlines.

5. All applications will be based on the following Production Allocation categories:
  - a) Beefsteak tomatoes
  - b) Tomatoes-on-the-vine
    - i) Large
    - ii) Cocktail (mid-size)
  - c) Peppers
    - i) Red
    - ii) Yellow
    - iii) Orange
    - iv) Green
  - d) Cucumbers
    - i) Long English
  - e) Butter lettuce
  - f) Specialty Crops
    - i) Tomatoes-on-the-vine
      - a) cherry
      - b) roma
      - c) mini-plum
      - d) yellow
      - e) orange
      - f) other
    - ii) Cucumber
      - a) mini-cucumbers
    - iii) Peppers
      - a) specialty
6. Additional Production Allocation categories may be established, with industry consultation, when the total industry production area of a new crop, type or variety exceeds 4,000m<sup>2</sup>.
7. All applications for new Production Allocations must include an application fee of \$250 for applications under 4,000m<sup>2</sup> from existing producers, \$500 for applications over 4,000m<sup>2</sup> from existing Producers and \$1,000 for all applications from new Producers. This application fee will be payable to the Commission for administration expenses. The application fee will be refundable if the applicant is unsuccessful.
8. Successful applicants will be required to deposit a further \$1.00/m<sup>2</sup>, with the Commission, in a form acceptable to the Commission, within 30 days of written confirmation of approval of a Production Allocation which will:
  - a) be forfeited if commercial planting has not commenced within 18 months of the date of Commission approval; or
  - b) be returned to the Producer upon;
    - i) confirmation of satisfactory completion of construction; and
    - ii) proof of propagation of the variety allocated

9. If the combined Production Allocation applications for any greenhouse crop represent an increase in the existing Production Allocations of 2% or less, then the Commission will be favourably disposed towards approval of all agency sponsored and exempted Producer applications for transfer or new Production Allocations within that greenhouse crop.
10. The Commission will assign Production Allocations based on demonstrated market demand for the greenhouse crop, as assessed by each agency and exempted Producer, and submitted to and accepted by the Commission. If an agency and/or exempted Producer, submit applications to the Commission for total Production Allocation in excess of the demonstrated market demand, as assessed by that agency and/or exempted Producer, and accepted by the Commission, the Commission will only assign Production Allocations commensurate with that demonstrated market demand. In assigning Production Allocations in such cases, the Commission will consider the following criteria, in order of priority, and will also consider the factors set out in sections 13 and 14 – Specialty Crops:
- a. Delayed Expansion: when Production Allocation has already been assigned but greenhouse construction has been delayed due to circumstances beyond the applicant's control, such as, extreme weather conditions, unforeseeable construction delays, or government approval delays.
  - b. Applications by Producers who currently hold less than 20,000m<sup>2</sup> of total Production Allocation, who are expanding within their existing crop, and whose application will increase their total Production Allocation to 20,000m<sup>2</sup> or less.
  - c. Applications by Producers who currently hold more than 20,000m<sup>2</sup> of total Production Allocation and who are expanding within their existing crop.
  - d. Applications by Producers who currently hold less than 20,000m<sup>2</sup> of total Production Allocation and are applying for transfer into a different crop.
  - e. Applications by Producers who currently hold more than 20,000m<sup>2</sup> of total Production Allocation and who are expanding or transferring into a different crop.
  - f. 1<sup>st</sup> Year Production Allocation Holder: When a Producer who has been assigned a Production Allocation under construction, but production will not occur until the following year.
  - g. New Producer: A Producer who has not been allocated any Production Allocation at the time of application. (Also see the New Entry Program under section 15).

**Note** - A corporate applicant for Production Allocation must have 51 percent common beneficial ownership in an existing greenhouse holding Production Allocation to qualify in categories identified in subsections b, c, d, e and f.

11. When there are two or more Producers who are equally qualified under sections 10 (b) through 10 (g), the Commission will consider the following criteria in assigning a Production Allocation :

- a) Experience;
- b) Producer history; past performance in producing quality, a producer's food safety record, and any other production history they deem appropriate;
- c) Construction logistics; including the size of the existing greenhouse or planned greenhouse or any other economies of scale that they deem appropriate;
- d) Financial resources, capabilities or business plans;
- e) Location of greenhouse; and,
- f) Other criteria as deemed pertinent from time to time.

12. At any time during the construction or following the completion of any construction the Producer shall permit the Commission or its designate to have access to any facility for the purposes of measuring the production area or determining the greenhouse crop or variety planted.

#### *Specialty Crops*

13. New varieties of greenhouse crops or specialty crops must be produced within the assigned Production Allocation for that greenhouse crop (i.e. – TOV, Beefsteak, Cucumbers or Peppers).

14. As the development of specialty crops is an important component of industry expansion, and requires additional development costs and risks by both Producers and agencies, the Commission will give first consideration for Production Allocation transfers or allocation to those undertaking these risks until total Production Allocation exceeds 80,000m<sup>2</sup>.

#### *New Entry Program*

15. A New Entrant Production Allocation Bank will be established by the Commission for the purposes of assigning Production Allocations to New Entrant(s). Each year following the Production Allocation process, the Commission shall deposit an additional 10% (or 20,000m<sup>2</sup>, whichever is the greater) of the Production Allocation from that year into a Production Allocation Bank. The Commission will assign the Production Allocation contained in the Production Allocation Bank to a New Entrant when the market demand is demonstrated and the New Entrant is sponsored by a designated agency.

- a) To qualify as a New Entrant, neither the applicant, nor a member of the immediate family of the applicant may have any financial interest in any other greenhouse that has been assigned a Production Allocation, directly or indirectly, through any organization or entity.

- b) A New Entrant may apply for the Production Allocation within the Production Allocation Bank providing the application is supported by a designated Agency that holds a Class I or II Licence.
- c) If no designated agency is prepared to sponsor New Entrant applications in the year of allocation, then following industry consultation, the Commission may direct the successful applicant and their Production Allocation to an existing agency.
- d) A New Entrant must comply with all provisions contained within these Production Allocation procedures, including the deposit and administration fee provisions contained under sections 7 and 8.
- e) In the event that there are multiple applications for the available Production Allocation the Commission will utilize the relevant criteria established in section 11 as a guideline in determining the successful applicant.

*Pepper Colour Allocation*

- 16. If an agency is unable to reach agreement with their greenhouse pepper producers over colour allocation, then either party may apply to the Commission for adjudication of the matter.

**PART XIX PRICING PROCEDURES**

- 1. When implemented, the purposes of the Commission pricing procedures are to: provide a coordinated approach to the marketplace, maximize the market returns for Regulated Product, maximize market penetration, establish base prices for all Agencies, be as competitive as necessary, and regularly monitor Agency sales.
- 2. Should minimum pricing procedures be implemented, the Commission will consult with the affected Agencies, and will establish minimum selling prices as often as necessary for regulated product in each District. Any Regulated Product sold by an Agency to a buyer in another District must be invoiced at a landed price not less than the minimum price established for that other District.
- 3. Agencies may, with the prior knowledge and approval of the Commission, be allowed to give advertising discounts or volume discounts for advertised specials, which are below the Commission minimum price.

**PART XX DIRECT MANIFEST SALES**

- 1. The purpose of this Manifest Sales system is to allow Producers to supply local product directly to smaller outlets who are not customers of any Agency or any other Person specified by the Commission; this system is not intended to create a Producer-against-Producer or Producer-against-Agency conflict.
- 2. An Agency shall obtain Commission approval before instituting a Manifest Sales

program.

3. Prior to shipping any Regulated Product to any consumer, a Producer must obtain the approval of the Agency through which the Commission has directed it shall market its Regulated Product. The Producer shall not interfere with Agency-direct sales.
4. At the request of the Commission, an Agency shall provide an Agency customer list that clearly defines which customers are not eligible for Manifest Sales purchases. The list may be updated at any time by the Agency, filed with the Commission, and re-distributed to the Agency's Producers. When authorizing Manifest Sales, the Agency must ascertain that the sales are to customers that are not customers of the Agency.
5. Manifest Sales shall not be made to Commission Salespersons, Brokers, Wholesalers, Processors, Producers, or to any other Persons prohibited by the Commission, as may be stipulated by the Commission.
6. All sales under this Part shall be recorded on an Agency manifest or invoice with a Transport Order number approved by the sales manager of that Agency.
7. All invoices shall comprise at least 3 copies:
  - (a) Customer copy
  - (b) Agency copy
  - (c) Producer copy
8. All sale invoices shall be complete with:
  - (a) Customer's name and address, Producer's name and Licence Number;
  - (b) all details of produce sale including grade, price and total pounds of each type of Regulated Product delivered;
  - (c) Agency name and address; and
  - (d) manifest sale or transport number.
9. All Regulated Product sold under this Part:
  - (a) unless otherwise directed by the Commission, shall have a 15 percent minimum mark-up above the minimum price set by the Commission, taking into consideration wholesale spread, cost of delivery and services provided. Agencies shall publish a sales price list to be sent to Producers weekly;
  - (b) shall meet Canada No. 2 Standard Grade or better;
  - (c) shall comply with like Regulated Product sold by Agencies (i.e., clean Containers and washed product where applicable); and
  - (d) shall be identified with a tag or label that identifies the Producer making the sale.
10. A Producer is directly responsible for:
  - (a) the grade of Regulated Product, any detention or seizure of Regulated Product and any costs related to the sale that may occur;

- (b) the collection of all amounts owing from their own manifest sales; and
- (c) packaging materials; Regulated Product shall not be sold in Agency packaging materials without the prior approval of the Agency.

11. All sales by the Manifest system shall be reported to the Agency's sales desk:
  - (a) with a copy of the invoices in detail; and
  - (b) an agency fee approved by the Commission; and
  - (c) on a daily basis, unless otherwise approved by the Commission.
12. The Agency shall also be responsible for collecting all fees approved by the Commission and any other assessment that may occur from time to time (e.g., promotion, research, or anti-dumping levies).
13. All sales under this Part may only be made in the District in which the Regulated Product is grown.
14. Reported sales, for field crops and storage crops only, will qualify to build Delivery Allocation provided sales invoices are documented properly and processed through an Agency, regardless of whether the Producer is actually able to collect monies from the sale.
15. A Producer must have a confirmed sale prior to delivery and must have his manifest sale invoices completed with all the required information set out in Section 8 of this Part.
16. If an Agency suspects one of its Producers is not acting in compliance with this Part, the Agency shall provide the Producer's name and the customer name and location to the Commission for investigation.

## **PART XXI MISCELLANEOUS**

1. Annual General Meetings of the Commission will be held by April 30<sup>th</sup> each year in a location to be determined by the Commission.
2. The Commission may issue a Certificate of Authority, which authorizes a Person to perform specific tasks on behalf of the Commission under the direction of the Commission within a specified time frame.

### *Commissioner and Employee Indemnification*

3. If an action or prosecution is brought against a Commission member or employee in connection with the performance of the person's duties, the Commission will, subject to Sections 4 and 5, pay amounts required for the protection, defence or indemnification of the member, or employee.
4. The Commission will not pay a fine that is imposed on a member or employee as a result of the person's conviction for a criminal offence.



5. The Commission will not pay amounts required for the protection, defence or indemnification of the member or employee in respect of any action of the person that results in a claim for damages if:
- (a) the claim arises out of the gross negligence of that person, or
  - (b) in relation to the action that gave rise to the claim against a member or employee, he or she wilfully acted contrary to the Commission's recognized policies or procedures or contrary to the order of a superior.

*Effective Date*

6. These General Orders shall come into operation on March 16<sup>th</sup> 2005.

Dated at Delta, British Columbia this 16<sup>th</sup> day of March 2005.

BC VEGETABLE MARKETING COMMISSION



George Leroux, Chair

### **Schedule I – Designated Agencies**

1. **BC Hothouse Foods Inc.** is hereby designated as an Agency through which greenhouse cucumbers, greenhouse tomatoes, and greenhouse peppers grown in District I and District II, may be packed and stored and shall be Marketed unless otherwise ordered by the Commission.
2. **Fraserland Organics Inc** is hereby designated as an Agency through which organic potatoes grown in District I, may be packed and stored and shall be Marketed unless otherwise ordered by the Commission.
3. **Global Greenhouse Produce Inc** is hereby designated as an Agency through which greenhouse tomatoes and greenhouse peppers grown in District I, may be packed and stored and shall be Marketed unless otherwise ordered by the Commission.
4. **Greenhouse Grown Foods Inc** is hereby designated as an Agency through which greenhouse tomatoes, greenhouse peppers and greenhouse cucumbers, grown in District I, may be packed and stored and shall be Marketed unless otherwise ordered by the Commission.
5. **The Interior Vegetable Marketing Agency** is hereby designated as an Agency through which beets (tops off), green cabbage, red cabbage, carrots (tops off), onions, parsnips, potatoes, rutabagas, white turnips, celery, iceberg lettuce, greenhouse cucumbers, greenhouse tomatoes and greenhouse butter lettuce grown in District III, may be packed and stored and shall be Marketed unless otherwise ordered by the Commission.
6. **Island Vegetable Co-operative Association**, is hereby designated as an Agency through

which beets (tops off), red cabbage, green cabbage, carrots (tops off), onions, parsnips, potatoes, rutabagas, white turnips, celery, iceberg lettuce, romaine lettuce and green leaf lettuce grown in District II, south of the line separating the Cowichan Land District and the Shawnigan Land District and extending eastward to the international boundary and westward to the Pacific Ocean, may be packed and stored and shall be Marketed unless otherwise ordered by the Commission.

7. **Lower Mainland Vegetable Distributors Inc.** is hereby designated as an Agency through which beets (tops off), green cabbage, red cabbage, carrots (tops off), onions, parsnips, potatoes, rutabagas and white turnips grown in District 1, may be packed and stored and shall be Marketed unless otherwise ordered by the Commission.

8. **Vancouver Island Produce Limited**, is hereby designated as an Agency through which beets (tops off), red cabbage, green cabbage, carrots (tops off), onions, parsnips, potatoes, rutabagas, iceberg lettuce, red leaf lettuce, green leaf lettuce, romaine lettuce, greenhouse peppers, greenhouse tomatoes and greenhouse cucumbers, grown in that part of District II, north of the line separating the Cowichan Land District and the Shawnigan Land District and extending eastward to the international boundary and westward to the Pacific Ocean, may be packed and stored and shall be Marketed unless otherwise ordered by the Commission.

## **Schedule II – Regulated Vegetables**

### **District I (Lower Mainland)**

#### Storable Crops

Beets (tops off); Green Cabbage; Red Cabbage; Carrots (tops off); Onions, (sweet onions only after September 1 annually); Parsnips; Potatoes; Rutabagas and White Turnips

#### Greenhouse Crops

Cucumbers (all types); Tomatoes (all types); Peppers; (all types); and Butter Lettuce

#### Processing Crops

Peas, Beans, Corn, Broccoli, Brussels Sprouts, Cauliflower, Potatoes and Strawberries.

### **District II (Vancouver Island)**

#### Storable Crops

Beets (tops off); Green Cabbage; Red Cabbage; Carrots (tops off); Onions (sweet onions only after September 1 annually); Parsnips; Potatoes; Rutabagas and White Turnips

#### Perishable Crops

Field Lettuce; and Celery

Greenhouse Crops

Cucumbers (all types); Tomatoes (all types); Peppers; (all types); and Butter Lettuce

**District III (Interior)**

Storable Crops

Beets (tops off); Green Cabbage; Red Cabbage; Carrots (tops off); Onions, (including Silverskin Onions), (sweet onions only after September 1 annually); Parsnips; Potatoes; Rutabagas and White Turnips

Greenhouse Crops

Cucumbers (all types); and Tomatoes (all types)

**Schedule III – Annual Licence Fees**

	Class 1	Class 2	Class 3	Class 4	Class 5
<b>Agencies - \$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)</b>	<b>Base amount</b>	<b>Class 1 times 2</b>	<b>Class 1 times 3</b>	<b>Class 1 times 4</b>	<b>Class 1 times 5</b>
<b>Producers</b>	<b>\$50</b>	<b>\$100</b>	<b>\$1,000</b>	<b>\$5,000</b>	<b>\$20,000</b>
<b>Processor</b>	<b>\$100</b>	<b>\$500</b>	<b>\$1,000</b>	<b>\$5,000</b>	
<b>Commission Salesman</b>	<b>\$100</b>	<b>\$500</b>	<b>\$1,000</b>	<b>\$5,000</b>	
<b>Wholesaler</b>	<b>\$100</b>	<b>\$500</b>	<b>\$1,000</b>	<b>\$5,000</b>	
<b>Producer Processor</b>	<b>\$100</b>	<b>\$500</b>	<b>\$1,000</b>	<b>\$5,000</b>	
<b>Packing House</b>	<b>\$100</b>	<b>\$500</b>	<b>\$1,000</b>	<b>\$5,000</b>	

**Schedule IV – BCVMC Levies & Special Levies**

	Per Unit Levy	Area Based Fee
Greenhouse Crops (Marketed by a designated agency)	\$0.0075 (3/4 of 1 cent) per case	\$0.04 per sq M (4 cents per sq metre)
Greenhouse Crops (Exempted Producers)	\$0.000	\$0.10 per sq M (10 cents per sq metre)

Field Crops	\$0.088 (8 and 8/10 cents) per case	
Storage Crops - fresh	\$2.81 (two dollars & eighty one cents) per ton	
Storage Crops - Contract	\$2.26 (two dollars & twenty six cents) per ton.	
Processing Peas	\$3.65 (three dollars & sixty five cents) per ton	
Processing Beans	\$2.90 (two dollars & ninety cents) per ton	
Processing Corn	\$1.16 (one dollar & sixteen cents) per ton	
Processing Broccoli	\$3.50 (three dollars & fifty cents) per ton	
Processing Brussels Sprouts	\$3.50 (three dollars & fifty cents) per ton	
Processing Cauliflower	\$3.50 (three dollars & fifty cents) per ton	
Processing Strawberries	\$4.13 (four dollars & thirteen cents) per ton	
BC Greenhouse Growers' Assoc.	\$ 0.17m <sup>2</sup> General Fund \$ 0.115m <sup>2</sup> Research Fund	
Interior Greenhouse Growers' Assoc.	\$50.00 annually per registered greenhouse producer in District III	
Potato Industry Development Special Levy	\$0.50 (fifty cents) per ton	
Potato Anti Dumping Special Levy	\$0.75 (seventy five cents) per ton	
BC Agriculture Council Special Levy	Root Crops \$0.055 (five & ½ cents) per ton Field Crops \$0.001 (one tenth of 1 cent) per case.	
Root Maggot Project Special Levy	All Green & Red Cabbage, Rutabagas, Turnips at \$ 0.50/ton	

### **Schedule V – Exempted Growers – 2005**

The following individual producers are exempted from the requirement of marketing through a designated agency:

- 14K Greenhouses – District III greenhouse
- Agrotech Greenhouses – District I greenhouse organic TOV
- BJ's Greenhouse – District III greenhouse
- Briner Farm – District I organic storage crops
- Celyddon Farms District I organic greenhouse tomatoes
- Centre Road Farms – District III greenhouse
- Desert Edge Nurseries – District III greenhouse
- Evergrow Greenhouse Ltd – District I greenhouse mini-cucumbers
- Fable Farms – District I greenhouse butter lettuce
- Four Seasons Greenhouse – District III greenhouse
- Gabriola Greenhouse Ltd. – District II greenhouse
- Glenmore Valley Greenhouses – District III greenhouse
- Gomes Greenhouse – District III greenhouse
- Graeme Hall – District II greenhouse
- Grandview South Nursery – District III greenhouse
- Green Leaf Farm – District I greenhouse mini cukes
- Hazelmere Greenhouses – District I organic greenhouse

Island Hothouse Inc. – District II greenhouse peppers  
Jamieson’s Saddlery – District I greenhouse cucumbers  
Katatheon Farms Inc – District I greenhouse specialty peppers  
Malhi Farms – District I greenhouse mini-cucumbers  
Nunes Greenhouse – District III greenhouse  
Ross Greenhouses – District I greenhouse peppers  
Salmonberry Farms – District II greenhouse  
Shann Sunshine Valley Farms – District III greenhouse  
The Garden – District II greenhouse Butter Lettuce  
Wilson and Wilson Greenhouses – District III greenhouse  
Wintergreene Farms – District III greenhouse

The following class of producers is exempted from the requirement of marketing through a designated agency:

1. All Producers of organically grown regulated crops with the exception of those producers marketing through Fraserland Organics Inc. and organically grown processing crops for processing crops or manufacture.
2. All Producers of regulated field vegetables in District I.
3. All Producers of greenhouse peppers in District II & III, unless otherwise directed.
4. All Producers located north of the 53° parallel.