

BC Cranberry Marketing Commission

General Orders

September 2021

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Part 1 Purposes and Authorities

Precedence of these Orders

1. These Orders replace all former General Orders of the British Columbia Cranberry Marketing Commission (“Commission”). To the extent of any inconsistency between these Orders and any other Order, Rule or policy of the Commission, these Orders shall prevail.

Authority of the Commission

2. The Commission exercises its powers under the following enactments:
 - (a) *Natural Products Marketing (BC) Act*, R.S.B.C. 1996, c.330;
 - (b) *British Columbia Cranberry Marketing Scheme*, B.C. reg 259/68;
 - (c) Order in Council No. 1086, approved and ordered Nov. 18, 2004, amending BC Reg # 259/68 and the
 - (d) *Natural Products Marketing (BC) Act Regulations*, B.C. Reg 328/75.

Purpose of Orders

3. The Commission is vested with the power to promote, regulate and control in any and all respects, to the extent of the powers of the Province, the transportation, processing, packing, storing and marketing, or any of them, of the regulated product, including the prohibition of such transportation, processing, packing, storing and marketing, or any of them, in whole or in part. These Orders implement the powers vested in the Commission.

Power to Exempt

4. The Commission is vested with the power to exempt from a determination or order a person or class of persons engaged in the transportation, processing, packing, storing and marketing, production, of a regulated product or a class, variety or grade thereof.

Power to Delegate

5. The Commission is vested with the power to delegate its powers to such extent and in such manner as the Commission may from time to time deem necessary or advisable for the proper operation of the Scheme.

Part 2 Definitions

6. In these Orders
 - (a) "Act" means the Natural Products Marketing (BC) Act;
 - (b) "Designated Agency" means any person designated by the Commission as being a person through which any regulated product shall be processed or marketed.
 - (c) "Commission" means the British Columbia Cranberry Marketing Commission;
 - (d) "Control" means
 - (i) the majority of the votes to elect the Board of Directors in respect of a corporation;
 - (ii) the majority of partners entitled to vote in respect of a General Partnership;
 - (iii) the majority of votes to elect the Board of Directors of the General Partner or General Partners of a Limited Partnership;
 - (e) "Cranberry Bog" means land on which cranberries are grown;
 - (f) "Delivery Right" means the acres of cranberries that a Registered Grower or Grower Vendor is contracted to deliver to an Agency.
 - (g) "Marketing" means selling, disposing of, and offering for sale;

- (h) "Marketing Order" means an order specifying the amount of regulated product that each Registered Grower and Grower Vendor may transport from their Cranberry Bog in the specified period.
- (i) "Order" means an order of the Commission (as may from time to time be declared by the Commission) and includes these General Orders;
- (j) "Person" means any individual, partnership, firm or corporation;
- (k) "Registered Grower" is any Person owning, leasing or operating a Cranberry Bog of 2 acres or more planted in cranberries in BC.
- (l) "Grower Vendor" means a Registered Grower authorized and licensed by the Commission to pack, transport, process, store and market, the regulated product grown by them;
- (m) "Regulated Product" means any variety of cranberries (*Vaccinium macrocarpon*) grown in British Columbia.
- (n) "Rule" means a determination by the Commission giving effect to, or defining a General Order, or a determination by the Commission providing a temporary variance to a Person or class of Persons, from a General Order.
- (o) "Scheme" means BC Regulation No. 259/68 as amended from time to time.

Part 3 Requirement to Keep Records

Books and Records

7. Every Person shall keep in the English language complete and accurate books and records of all matters relating to the production, transportation, processing, packing, storing and marketing of the regulated product by them.

Make Books and Records Available for Inspection

8. For the purpose of ascertaining whether the orders 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 them.

Provide Information

9. Every Person shall upon request furnish to the Commission any information relating to the transportation, processing, packing, storing and marketing by them 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 4 License Requirements and Classifications

License Classes

10. All persons engaged in the commercial production, processing, packing or marketing of the regulated product are required to register annually with the Commission and obtain a license annually issued by the Commission.

- (a) Persons with 2 or more acres planted to the regulated product must obtain a Grower's License.
- (b) Registered Growers engaged in production and marketing of the regulated product other than to a designated agency, must obtain a Grower Vendor License;
- (c) Persons engaged in processing, packing or marketing the regulated product produced by a Registered Grower must obtain an Agency License.

License Qualifications

11. To qualify for a license:

- (a) a Registered Grower must have registered their acreage of the regulated product with the Commission, they must have a valid contract with a designated agency, and they may be required to demonstrate compliance with a recognized food safety plan.
- (b) a Grower Vendor must be in good standing with the Commission; have registered their acreage of regulated product with the Commission, they must submit a marketing plan satisfactory to the Commission and may be required to demonstrate that all aspects of producing, transporting, processing, storage and marketing the regulated product are consistent with recognized food safety standards.
- (c) An agency must be in compliance with all applicable provisions of Part 8 of these Orders.

Corporate Licenses

12. Each application for a license made in the name of a partnership or corporation must list the name of each owner, partner or shareholder and identify the signing or voting authority for the partnership or corporation.

Name on License

13. Each license issued by the Commission shall be issued to a named individual or an individual and a corporation jointly or in the case of a general partnership to the named partners jointly or in the case of a limited partnership to the partnership and the general partner jointly.

Ownership or Lease Requirements

14. A Registered Grower's license or a Grower Vendor's license will only be issued to a person who is an owner of a Cranberry Bog or the holder of a lease of a Cranberry Bog for a term of not less than three (3) years.

License Form

15. Each application for a license shall be on a form prescribed by the Commission.

License Expiry Date

16. The Commission shall set annually the license fees for each class of license. The Commission, may from time to time by Rule, suspend the license fee for any or all classes of license. The schedule of license fees is appended to these Orders as Schedule II.

Exemptions from *License Requirement*

17. Other than Registered Growers, Grower Vendors and Designated Agencies, persons engaged in the transportation and persons engaged in the storage of the regulated product are exempted from registering with and obtaining a license from the Commission.

Part 5 Authorities and Limitation of Licenses

Grower License

18. A Registered Grower's license authorizes a person to market the regulated product grown on their registered acreage or an amount of regulated product as may be determined from time to time by the Commission, to a designated agency. A Registered Grower's license does not permit the holder to process or store the regulated product. The Commission may make Rules exempting a Registered Grower from the requirement of delivering an amount of regulated product to an agency, if that product is exclusively used for the fresh market.

Grower Vendor License

19. A Grower Vendor license authorizes a person to transport, process, market or store the regulated product grown on their registered acreage or an amount of regulated product as may be determined from time to time by the Commission. A Grower Vendor license does not permit the holder to receive, transport, process, market or store the regulated product unless that regulated product was grown by the licensee.

Agency License

20. An agency license authorizes a person to receive the regulated product from a Registered Grower and to process, transport, market or store that product.

Part 6 Levies and Service Fees

Levies

21. Unless otherwise exempted by the Commission all persons producing the regulated product shall pay levies or service fees to the Commission based on the volume of regulated product produced or marketed or on the area producing the regulated product. Levy or services fee amounts are established and amended from time to time by the Commission and are described in Schedule II to these General Orders.

Submission of Levies

22. Agencies are required to collect and submit levies on behalf of Registered Growers, Grower Vendors must submit annual levies directly to the Commission by January 31 of the crop year April 1 to March 31.

Use of Levies

23. The funds derived from levies or service fees may be used for carrying out the purposes of the Scheme and in paying any expenses of the Commission in carrying out the performance of its duties.

Part 7 Agency Designation

Designated Agencies

24. The Commission may from time to time, designate one or more agencies to process, pack, market, or store, the regulated product produced by Registered Growers. Agencies designated by the Commission are listed in Schedule I.

Application Criteria

25. To be designated as an agency a Person must make application to the Commission for the designation. The application for designation shall address the following:
- (a) the market opportunities the applicant intends to pursue;
 - (b) how the designation of the agency will benefit the industry as a whole;
 - (c) processing, handling, packing, storage and marketing facilities and expertise and food safety certification;
 - (d) the business plan for the regulated product;
 - (e) demonstrated support from current Registered Growers;
 - (f) the applicant's understanding of the Act, the Scheme and the General Orders and the applicant's intention to comply with the applicable laws, orders, rules and procedures;
 - (g) food safety program and certification
 - (h) such other information as the Commission deems appropriate.

Public Hearing

26. When a completed agency designation application has been received, the Commission will, within 60 calendar days of the receipt of the application, hold a public hearing where the applicant will present their application and all known interested persons will be extended the opportunity to comment on it. Interested parties may comment in person or in written form at the public hearing.

Application is Public

27. Within 14 days of holding the hearing, the Commission will publicize the application materials, with any confidential or business sensitive information removed.

Recommendation to FIRB

28. A final decision on designating an agency is made by the Farm Industry Review Board. Within 30 calendar days of the public hearing, the Commission will make a recommendation on the agency designation application to the FIRB.

Part 8 Agency Responsibilities and Review

Recommendation to FIRB

29. Upon request, an agency shall furnish such information, consistent with the Scheme and these General Orders, as the Commission may from time to time require.

Review of Agencies

30. An agency designation by the Commission is not issued in perpetuity. To maintain its designation, an agency must annually obtain a license issued by the Commission. Licenses may be cancelled or suspended at any time, if the Commission determines that continuing the license is not in the best interests of the industry.

Grower Payment Performance

31. Agencies are annually required to submit a 3 year Registered Grower payment history, or a payment history from agency designation if designated for less than 3 years.

License and Contract Requirement

32. No agency shall accept regulated product from a Registered Grower unless that Registered Grower has a valid license issued by the Commission and the agency has a valid contract with that person. All contracts between an agency and a Registered Grower must be for a stated acreage of regulated product. An agency may receive regulated product from a licensed Grower Vendor without a contract with that person.

Limitation of Marketing Order

33. An agency may only receive from a Registered Grower the volume of regulated product specified in a marketing order, if such an order has been issued by the Commission.

Acreage and Volume Reports

34. Agencies shall report to the Commission by December 31st of each year, the contracted total and producing acres and volumes of regulated product delivered to the agency by each Registered Grower and Grower Vendor.

Remittance of Levies

35. Each Agency shall deduct the appropriate Commission levy or service fee from the producer's proceeds as directed by the Commission and each agency shall remit the funds to the Commission before March 31 of the crop year.
36. Agencies shall report to the Commission by December 31st of each year, any transfer of Delivery Rights.
37. Each Agency shall deduct the appropriate Commission levy or service fee from producer's proceeds as directed by the Commission and each Agency shall remit the funds to the Commission before the end of that crop year March 31.

Part 9 Planned Production on New or Additional Acreage

Notification of New Planting

38. Other than consolidating existing Cranberry Bogs, any person intending to plant new or additional acreage of the regulated product must notify the Commission by December 31 in the year prior to the year of planting. The notification shall include:
- (a) The number of acres intended to be planted;
 - (b) The legal description and street address of the land on which the cranberry planting is intended;
 - (c) Confirmation the applicant owns the land or has a lease on the land for a term of at least three (3) years;
 - (d) Confirmation from a designated agency that it will accept the production from the additional acreage;
 - (e) In the case of Grower Vendors, a marketing plan, acceptable to the Commission for the production from the new or additional acreage.

Confirmation of Planting

39. A Person filing a notice under Section 1 of this Part is also required to notify the Commission when the planting has been completed.

Failure to Notify

40. In the event that new or additional acreages of the regulated product were planted without properly notifying the Commission, the Commission may at its discretion, exclude all or part of the production from the acreages when determining marketing orders as described in Part 10.

Part 10 Marketing Orders

Issuing Marketing Orders

41. If the Commission determines that the production of the regulated product may exceed projected market requirements, the Commission may issue marketing orders to each Registered Grower and each Grower Vendor specifying the amount of regulated product that each Registered Grower and each Grower Vendor may transport from their Cranberry Bog in that period.

Equitable Sharing

42. When the Commission has determined the total projected market requirements for the regulated product for the period, the Commission may make Rules to determine individual marketing order volumes so that each Registered Grower and each Grower Vendor shares equitably in the projected market requirements.

Prohibition against Transfer

43. Marketing Orders are not transferable between Registered Growers or between Grower Vendors or between each other and may not be shared, leased, or used in any way other than by the Registered Grower or Grower Vendor named on the order.

Limitation of Marketing Order

44. No Registered Grower and no Grower Vendor may market an amount in excess of the amount stated on the marketing order.

Absence of Marketing Orders

45. If no marketing orders have been issued for the period, then all of a Registered Grower's and all of a Grower Vendor's production of cranberries from their registered acreage may be marketed as authorized by the license.

Transfer between Agencies

46. If marketing orders have been issued, the Commission may direct an agency to deliver or make available a volume of regulated product, as determined by the Commission, to another agency and the Commission may establish the price for the product so transferred.

Part 11 Promotion and Research

Funding of Projects

47. The Commission may provide funding for research and promotion that it determines may be beneficial to the industry. Any person or organization requesting funds from the Commission for research or promotional purposes shall make application on a form prescribed by the Commission and if funding is approved shall carry out the activity as described in the application and shall report the results of the project or activity to the Commission in a manner approved by the Commission.

Collaboration with other Organizations

48. The Commission may consult or collaborate with other organizations in Canada or abroad to maximize research and promotion benefits to BC Registered Growers and it may delegate any appropriate powers and responsibilities to those organizations, as it deems desirable and expedient.

Part 12 Quality Standards

49. The Commission may from time to time establish quality standards for the regulated product and require agencies and Grower Vendors to provide evidence of compliance with those standards.

Part 13 Compliance

Failure to Comply

50. If the Commission determines that a Person or an agency has failed to comply with the Act, the Scheme, or any Orders or Rules of the Commission, the Commission may:
- (a) cancel or suspend that Person's license,
 - (b) issue a special marketing order specifying the volume of regulated product that may be marketed, or
 - (c) take such other steps, consistent with the Act and the Scheme, as the Commission deems appropriate.

Due Process

51. Prior to taking any actions contemplated in Section 1 of this Part, the Commission will inform the Person, or agency of the alleged violations and if the person or agency wishes to contest the allegation, the Commission will hold a hearing providing the opportunity for the person or agency to present evidence or opinion on this matter.

Costs Recoverable

52. Any costs incurred by the Commission in imposing a penalty on a person under this Part shall be fully recoverable by the Commission from that person.

Part 14 Miscellaneous

Commissioner and Officer Indemnification

53. If an action or prosecution is brought against a Commission member or officer in connection with the performance of the person's duties, the Commission will, subject to Sections 2 and 3, pay amounts required for the protection, defence or indemnification of the member or officer.

Exception for Criminal Offence

54. The Commission will not pay a fine that is imposed on a member or officer as a result of the person's conviction of a criminal offence.

Exception for Neglect

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

Annual General Meeting

56. The Commission shall hold an Annual General Meeting not later than March 31st of each year.

Effective Date

57. These General Orders shall come into operation on October 1, 2021

Dated at: Port Moody, British Columbia this September 8, 2021

BC CRANBERRY MARKETING COMMISSION



Kalpna Solanki, Chair



Jack DeWit, Vice Chair

Schedule I – Designated Agencies

Ocean Spray of Canada, Ltd.
5700 Dhillon Way
Richmond, BC V6V 3A2

Pacific Canadian Fruit Packers Inc.
1854 Dewdney Trunk Road
Pitt Meadows BC V3Y 2R9

Coast Cranberries Ltd.
21710 Allard Cr.
Langley, BC V1M 3W1

Schedule II – Fees & Levies

A. License Fees

Grower	\$ 10.00
Grower Vendor	\$100.00
Agency	\$500.00

B. Grower Levy

\$0.28 (twenty eight cents) USD or the CND\$ equivalent per barrel (100 lbs)

Rules

Rule #1

Pursuant to Part 4 Section 7

Exemption from License Fees

1. Registered Growers who have paid the levy in Part B of Schedule II are exempted from the annual License Fee.
2. Registered Growers and Grower Vendors whose total registered cranberry acreage are under renovation and not delivering cranberries are exempted from the annual License Fee.

Rule # 2

Pursuant to Part 5 Section 1

Exemption for Fresh Market

Registered Growers are granted an automatic exemption to a maximum of 1,000 lbs annually for the fresh market. Registered Growers wishing to market more than 1,000 lbs for the fresh market must apply to the Commission for a higher exemption and Commission decisions will be made on a case by case basis.