

## GENERAL REGULATIONS - 2007

made under

## THE FARM PRODUCTS MARKETING ACT

### INTERPRETATION

1. In these regulations
  - (1)
    - (a) "contract" means any agreement, oral or written, between the producer and a processor or a green shipper for the marketing of vegetables;
    - (b) "local board" means Ontario Processing Vegetable Growers;
    - (c) "marketing" includes advertising, assembling, buying, financing, offering for sale, packing, processing, selling, shipping, storing, and transporting and "market" and "marketed" have corresponding meanings;
    - (d) "processing" means,
      - (i) canning, dehydrating, drying, freezing, pickling or processing with sugar or sulphur dioxide or any other chemical or by heat, and combining or mixing a vegetable with one or more other vegetables;
      - (ii) entering into a contract for the purchase of vegetables for the purpose of performing on the vegetables any of the operations mentioned in subclause (i);
    - (e) "processor" means a person engaged in the business of processing vegetables;
    - (f) "producer" means a person engaged in the production of vegetables;
    - (g) "term contract" means a contract as described in paragraph (a) which contract is subject to the provisions of Regulation No. 1 of the local board;
    - (h) "vegetables" means the following vegetables produced in Ontario and used for processing: green and wax beans, lima beans, red beets, cabbage other than cabbage used for coleslaw, carrots, cauliflower, cucumbers, sweet corn, green peas, pumpkin and squash, peppers or tomatoes;
    - (i) "producer-processor" means a person who is both a producer and processor of vegetables.
    - (j) "green shipper" means a person, other than a processor, who purchases, acquires or obtains possession of cucumbers from producers for the purpose of sorting by size, grading, cleaning, inspecting, separating or brining.
  - (2) A person who brines cucumbers to extend their storage life so they may be sold for processing, but who does not do to cucumbers anything else described in the definition of "processing" in subsection (1), is not considered to be a processor of cucumbers for the purpose of this Regulation.
  - (3) All filings with and payments or notices to the local board shall be made at or to its office at 435 Consortium Court, London, Ontario, N6E 2S8.

### APPLICATION OF REGULATIONS

2. These regulations provide for the control and regulation in any or all respects of the producing and marketing within Ontario of vegetables, including the prohibition of such producing and marketing in whole or in part.

### LICENCES

3. No person shall engage in the producing of vegetables except under the authority of a licence of the class prescribed for that vegetable and except in compliance with the terms and conditions of the licence.

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4. No person shall engage in the marketing of vegetables except under the authority of a licence of the class prescribed for that vegetable and except in compliance with the terms and conditions of the licence.
5. (a) A licence to produce and market each of the vegetables as defined in section 1 is prescribed as a separate class of licence and shall be subject to such terms and conditions as may be imposed by the local board from time to time.  
  
(b) A licence as a green shipper of cucumbers shall be subject to such terms and conditions as may be imposed by the local board from time to time.

### TERMS AND CONDITIONS OF LICENCE

6. (a) The local board may impose such terms and conditions upon a licence as the local board considers proper.  
(b) Notwithstanding the generality of the foregoing, it is a term and condition of each licence issued to a producer under Section 5(a) that it shall;
  - (i) be for vegetables specified for that class of licence,
  - (ii) be for a specific quantity of the vegetable,
  - (iii) be produced for and marketed to a specific processor, and
  - (iv) include all obligations of the producer in accordance with the applicable Agreement or Award or renegotiated Agreement or Award in force for the marketing of the vegetable.  
(c) Notwithstanding the generality of the foregoing, it is a term and condition of each licence issued to a green shipper under Section 5.(b) that the green shipper shall;
  - (i) pay producers for cucumbers in accordance with one of the settled Agreements or Awards achieved through negotiations or arbitration in accordance with Regulation 440 as designated by the local board;
  - (ii) file contracting schedules on the same basis as processors in accordance with Section 18;
  - (iii) file harvest schedules on the same basis as processors in accordance with Section 19;
  - (iv) deduct licence fees and forward same to the local board on the same basis as processors in accordance with Section 20 (b); and
  - (v) file with the local board and maintain in good standing a Letter of Credit in such amount and on such terms and conditions as the local board determines.  
(d) Any term or condition of a licence establishing the quantity of a vegetable that may be produced or marketed pursuant to such licence may be amended by the local board increasing or decreasing the quantity of the vegetable.
7. No producer shall market vegetables to anyone other than a processor holding a valid subsisting licence to process vegetables under the Act or, in the case of cucumbers, alternatively to a green shipper holding a valid subsisting licence from the local board.
8. No person other than a processor holding a valid subsisting licence to process vegetables under the Act and, in the case of cucumbers, a green shipper holding a valid subsisting licence from the local board, shall purchase or acquire any vegetables except from a producer in accordance with the terms and conditions of the producer's licence.
9. No person shall buy any vegetables except from a producer in accordance with the terms and conditions of the producer's licence.
10. All vegetables shall be marketed pursuant to the contract between the producer and the processor or, in the case of cucumbers, between a producer and a green shipper or a processor.
11. No person except the producer, a processor, or in the case of cucumbers, a greenshipper, shall market vegetables to a processor.
12. (a) No producer shall offer for sale, sell, transfer, assign, ship or transport any vegetables produced under a term contract with a processor, except with the consent of the processor, to any person other than the processor with whom the producer has the term contract.  
  
(b) No person shall offer to sell, sell, rent or purchase or offer to purchase any contract.  
  
(c) No contract shall be transferred or assigned without the prior written consent of the parties to the contract and the local board.
13. No person except the processor with whom the producer has a term contract shall purchase or acquire vegetables that are produced by the producer pursuant to such term contract.

14. No person shall be a party to any arrangement the effect of which is contrary to the negotiated agreement or award, the terms and conditions of any licence, any provisions of the Act or the regulations, the plan or any order or direction of the local board.
15. No person shall sell, offer to sell, buy or pack any vegetables on commission or on consignment.
16. No person except under the authority of a licence to produce, market or process vegetables, shall market any vegetables.

### **LICENCE TO PRODUCE AND MARKET**

17. (a) Subject to section 24(1)(a), every producer who,
  - (i) is named on the processors' contracting report filed with the local board in accordance with Section 18(a)
  - (ii) has not been given notice by the local board pursuant to Section 24(1)(a); and
  - (iii) is not in default of payment of licence fees prescribed by Section 20;shall be deemed to be a holder of a licence of the class for that vegetable to produce and market the vegetable in accordance with the term contract between the producer and the processor or green shipper.
- (b) Every producer who is named on a contract or is named in the list of producers filed with the local board, in accordance with Section 18(a)(i) or (ii), may be issued a licence, in accordance with Section 24(1)(b), under such terms and conditions as the local board considers proper, to produce and market the vegetable, in accordance with the contract between the producer and the processor, and such contract may not be considered a term contract at the discretion of the local board.

### **CONTRACTING SCHEDULE**

18. (a) Every processor shall file with the local board, on or before the 15th day of May in each year, in respect of each vegetable, either:
  - (i) a true copy of every contract entered into between the processor and each producer on or before the 1st day of May; or,
  - (ii) a list of every producer with whom the processor has entered into a contract on or before the 1st day of May, including the name, address, telephone number and the volume contracted as specified in column 3 of Appendix A.
- (b) Every processor shall file with the local board a true copy of every contract entered into with a producer after May 1<sup>st</sup> in each year within 7 days of the date that the contract is entered into.
- (c) Every processor who contracts vegetables with a producer shall in each year complete and file with the local board a contract schedule as specified in Column 2 of Appendix A for the vegetable specified in Column 1 of Appendix A showing the information specified in Column 3 of Appendix A by the date specified in Column 4 of Appendix A that has not been submitted pursuant to sub-section (a) (ii).

### **HARVEST SCHEDULE**

19. (a) Every processor who receives vegetables from a producer shall in each year complete and file with the local board a harvest schedule as specified in Column 2 of Appendix B for the vegetable specified in Column 1 of Appendix B showing the information specified in Column 3 of Appendix B by the date specified in Column 4 of Appendix B.

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### Export Reconciliation Forms:

- (b) Every processor who exports sweet corn shall in each year complete and file with the local board a reconciliation form (Appendix C) accompanied by acceptable third party proof of export, detailing exports of sweet corn for the period May 16 to May 15, not later than June 1.

### **LICENCE FEES**

- 20. (a) Every producer shall pay to the local board, licence fees at the rate per ton or fraction thereof specified in Column 8 of Appendix D for the vegetable listed in Column 1 of Appendix D.
- (b) Every person who receives vegetables from a producer shall deduct from the monies payable to the producer any licence fees payable by the producer as specified in Column 8 of Appendix D, and shall forward same to the local board not later than the date specified in Column 9 of Appendix D.
- (c) Every producer shall pay to the local board not later than the 15th day of December in the year in which the vegetable was produced any licence fees payable by the producer to the local board that have not been deducted and paid to the local board pursuant to sub-section (b).

### **RECOVERY OF LICENCE FEES**

- 21. The local board may recover any licence fees or other monies or interest payable to the local board by suit in a court of competent jurisdiction.

### **INTEREST ON ARREARS**

- 22. (a) The local board may charge interest at a rate of 15% per annum on any unpaid licence fees upon the expiry of the deadline date for payment of any such licence fees.
- (b) Every person liable to pay licence fees to the local board shall pay to the local board forthwith on demand any interest charged by the local board under sub-section (a).

### **CHARGES, COSTS AND EXPENSES**

- 23. (a) No charges, costs or expenses relating to the production or marketing of a vegetable shall be made other than such charges, costs or expenses as are provided in the Agreement or Award or renegotiated Agreement or Award in force for the marketing of the vegetable.
- (b) No processor shall promote or offer or require as a condition of contract with a producer that the producer engage the services of any farm management or consulting person, firm or corporation.
- (c) No producer shall engage the services of any farm management or consulting person, firm or corporation as a condition of contract as promoted or offered or required by the processor.

### **LICENCE ISSUANCE, CANCELLATION, REDUCTION**

- 24. (1) (a) The local board shall give written notice to any producer whom it deems not to be the holder of a licence under section 17(a) within seven days of receipt of the contract or schedule specified in Section 18(a) and shall give a copy of said notice to that producer's processor.
- (b) The local board may issue a licence to a producer to whom subsection (a) applies, for the producing and marketing of a vegetable of the class for that vegetable on such basis including terms and conditions as the local board considers proper.
- (c) The local board may refuse to issue a licence to any person to produce and market vegetables;
  - (i) where the person is not a producer;

- (ii) where the person is not qualified by experience, financial responsibility or equipment to properly engage in the production and marketing of vegetables;
  - (iii) where the person has failed to comply with or has contravened any provisions of the Act, the Regulations, the Plan or any Order or Direction of the Commission, Director or local board, including failure to comply with any terms and conditions of a licence.
  - (d) The local board may permit any person to produce and market vegetables in excess of the quantity specified in the licence or to a processor other than the processor specified in the licence on such terms and conditions as the local board considers proper.
  - (e) Termination of a term contract, in accordance with Regulation No. 1 of the local board, cancels the licence of the producer in respect of which the producer had the term contract.
- (2) The local board may issue a licence to a green shipper for the marketing of cucumbers in accordance with section 5(b).
  - (3) The local board may refuse to grant or renew a licence or suspend or revoke a licence as a green shipper where the applicant or licensee is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made or the licence granted or where the applicant or licensee has failed to comply with or has contravened any provisions of the Act or Regulations, the Plan or any Order or Direction of the Commission, Director or the local board including the failure to comply with the terms and conditions of any licence.

### **PENALTIES**

- 25. (1) In addition to, or as an alternate to such other remedies as it has available to it, the local board may impose a penalty on any applicant for a licence or a licensee, who it finds, after a hearing, has failed to comply with or has contravened any term or condition of the licence or the Act or the Regulations, the Plan or any Order or Direction of the local board.
- (2) Subject to the Act, any penalty imposed under subsection (1) may be in an amount as determined by the local board to remove any advantage gained by the party in contravention and to fully reimburse the local board for any of its expenses and costs associated with any inspection, audit, investigation, hearing and disposition of the matter, including, but not limited to staff time, board member costs, legal and accounting fees and disbursements.
- (3) The local board may use any such penalty monies for the payment of its expenses as aforesaid, with any surplus to be used for its general purposes.

### **NOTICE PROVISION**

- 26. (a) Any notice required to be given under any regulations of the local board shall be given personally, by ordinary mail, or by facsimile transmission to:
  - (i) the producer or processor at the address or number specified in the contract or in the schedule specified in Section 18(a);
  - (ii) the local board at its head office, 435 Consortium Court, London, Ontario, N6E 2S8.
- (b) Any notice given as aforesaid shall be deemed to be received by the other party on the date of personal delivery or facsimile transmission on the 3rd day after the posting thereof.

### **PRODUCER - PROCESSORS**

- 27. Any person who produces and processes vegetable(s), shall furnish to the local board statements of the amounts of vegetables that he produced in any year and used for processing.

**EXEMPTIONS**

27. The local board may provide for the exemption from any or all of the regulations, orders or directions under the Plan of any class, variety, grade or size of vegetable or any person or class of persons engaged in the producing or marketing of vegetables of any class, variety, grade or size of vegetable.

**REVOCATION**

28. General Regulations made by the local board on the 24<sup>th</sup> day of April, 2006 are revoked.

**ONTARIO PROCESSING VEGETABLE GROWERS**

Bruce Shackleton  
**CHAIRMAN**

John S. Mumford  
**SECRETARY**

DATED at London, Ontario, this 23<sup>rd</sup> day of April, 2007

**AMENDED - SCHEDULE D****2007 LICENCE FEES**

COMMODITY	ADMIN	ACREAGE MEASUREMENT/ MONITORING	GRADING	(OPTAC) OTHER	SUB-TOTAL	GST	TOTAL DEDUCTION PER NET TON
TOMATOES	\$0.99	\$0.05	\$0.29	\$0.02	\$1.35	\$0.08	\$1.43
SWEET CORN	\$0.82	\$0.00	\$0.00	\$0.00	\$0.82	\$0.05	\$0.87
GREEN PEAS	\$3.13	\$0.00	\$0.13	\$0.00	\$3.26	\$0.20	\$3.46
CUCUMBERS	\$2.54	\$0.00	\$0.15	\$0.00	\$2.69	\$0.16	\$2.85
GREEN & WAX BEANS	\$2.00	\$0.00	\$0.00	\$0.00	\$2.00	\$0.12	\$2.12
CARROTS	\$0.74	\$0.00	\$0.00	\$0.00	\$0.74	\$0.04	\$0.78
PEPPERS	\$2.63	\$0.00	\$0.00	\$0.00	\$2.63	\$0.16	\$2.79
BEETS	\$0.88	\$0.00	\$1.35	\$0.00	\$2.23	\$0.13	\$2.36
LIMA BEANS	\$5.52	\$0.00	\$0.00	\$0.00	\$5.52	\$0.33	\$5.85
SQUASH	\$0.81	\$0.00	\$0.00	\$0.00	\$0.81	\$0.05	\$0.86
CABBAGE	\$0.69	\$0.00	\$0.00	\$0.00	\$0.69	\$0.04	\$0.73
CAULIFLOWER	\$2.85	\$0.00	\$0.00	\$0.00	\$2.85	\$0.17	\$3.02
PUMPKIN	\$0.79	\$0.00	\$0.00	\$0.00	\$0.79	\$0.05	\$0.84