

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No. 911, Approved and Ordered December 07, 2016

  
Lieutenant Governor


**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that,

- (a) effective January 1, 2017, the *Food and Agricultural Products Classification Act*, S.B.C. 2016, c. 1, is brought into force,
- (b) effective January 1, 2017, the *Organic Agricultural Products Certification Regulation*, B.C. Reg. 200/93, is repealed,
- (c) effective January 1, 2017, the *Organic Certification Regulation* set out in the attached Appendix 1 is made, and
- (d) effective September 1, 2018, the *Organic Certification Regulation* is amended as set out in the attached Appendix 2.



Minister of Agriculture



Presiding Member of the Executive Council

*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Food and Agricultural Products Classification Act*, S.B.C. 2016, c. 1, ss. 47 (4) (c) to (f), (h) and (i) and (5) (a) and (b), 52 (6) (b), 53 (3), and 60

Other: OIC 804/93

November 2, 2016

2/R/802/2016/3

## APPENDIX 1

# ORGANIC CERTIFICATION REGULATION

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### SCHEDULE

#### Definitions

- 1 In this regulation:
  - “**Act**” means the *Food and Agricultural Products Classification Act*;
  - “**certificate**” means a certificate issued under section 7 [*issuing certificates*];
  - “**certifying agency**” means an agency exercising a power or performing a duty of the administrator further to a delegation made under section 3 [*administrator*];
  - “**organic production standards**” means the standards adopted under section 9 (1) [*duties on being certified*];
  - “**organic program**” means the Organic Food and Agricultural Products Certification Program continued under section 2 [*certification program continued*];
  - “**organic protected label**” means a protected label prescribed under section 11 [*protected labels with respect to certification*];
  - “**produce**” means to possess, rear, grow, harvest, process, transport or store;
  - “**society**” means a society as defined in the *Societies Act*;
  - “**verification officer**” means a person described in section 6 [*verification officers*].

#### Certification program continued

- 2 (1) The program established under the Organic Agricultural Products Certification Regulation before its repeal
  - (a) is continued as a certification program for the purposes of the Act, and
  - (b) is named the Organic Food and Agricultural Products Certification Program.
- (2) The purpose of the Organic Food and Agricultural Products Certification Program is to
  - (a) certify operators who meet organic production standards, and

- (b) enable certified operators to use organic protected labels.

**Administrator**

- 3
- (1) The Certified Organic Associations of British Columbia is authorized to continue as the administrator of the organic program.
  - (2) The administrator is authorized to do all of the following:
    - (a) exercise the powers and perform the duties described in section 4 (1) (a) to (c) of the Act;
    - (b) collect and retain fees
      - (i) for the purposes of exercising the powers and performing the duties described in section 4 (1) (a) to (c) of the Act, and
      - (ii) as described in section 4 (1) (d) (i) to (iii) of the Act;
    - (c) delegate to one or more certifying agencies one or more of the powers and duties described in paragraphs (a) and (b) of this subsection;
    - (d) delegate to one or more committees of the administrator one or more powers with respect to the administration of the organic program.
  - (3) The administrator must not collect, or permit a certifying agency to collect, a fee except as permitted under the Schedule.

**Certified Organic Associations of British Columbia**

- 4
- The Certified Organic Associations of British Columbia must do all of the following:
    - (a) admit as members those societies who meet the Certified Organic Associations of British Columbia's requirements for membership;
    - (b) admit as a non-voting member a person designated by the minister;
    - (c) audit its voting members to ensure continued compliance with the Act and requirements for membership;
    - (d) suspend or cancel the membership of voting members who do not comply with the Act or requirements for membership;
    - (e) subject to section 8 [*appeals of decisions*], have a fair process for determining appeals respecting the refusal, suspension or cancellation of membership.

**Certifying agencies**

- 5
- (1) The administrator may delegate its powers and duties only to certifying agencies that meet all of the following criteria:
    - (a) the certifying agency must be a society;
    - (b) the certifying agency must be a voting member, in good standing, of the Certified Organic Associations of British Columbia;
    - (c) at least some of the members of the certifying agency must be engaged in
      - (i) producing food or agricultural products according to organic production standards, or
      - (ii) distributing or marketing food or agricultural products that have been produced according to organic production standards;

- (d) the certifying agency must engage one or more verification officers, and each verification officer must meet the requirements of section 6 [verification officers];
  - (e) the administrator must be satisfied that the certifying agency
    - (i) can effectively carry out the delegated powers and duties, including ensuring that the members of the certifying agency are complying with organic production standards, and
    - (ii) has a fair process for determining appeals respecting the refusal or cancellation of membership in the society of the certifying agency.
- (2) Subject to section 8 [appeals of decisions], the administrator may set standards for the purpose of subsection (1) (e) of this section.

#### **Verification officers**

- 6**
- (1) A certifying agency must engage one or more verification officers for the purpose of ensuring that the members of the certifying agency
    - (a) are complying with organic production standards, and
    - (b) are using organic protected labels in accordance with the Act and this regulation.
  - (2) A verification officer must be a member in good standing of the International Organic Inspectors Association.
  - (3) The administrator
    - (a) may establish additional training and qualification requirements that verification officers must meet, and
    - (b) must establish standards of practice that must be followed by verification officers.
  - (4) A verification officer must comply with the requirements, if any, and standards set under subsection (3).

#### **Issuing certificates**

- 7**
- (1) A person may apply to a certifying agency, in the form and manner required by the certifying agency, for a certificate.
  - (2) A certifying agency may issue a certificate, with or without conditions, to an applicant if
    - (a) the applicant is a member in good standing of the certifying agency, and
    - (b) the certifying agency is satisfied that the applicant
      - (i) produces food or agricultural products according to organic production standards, or
      - (ii) distributes or markets food or agricultural products that have been produced according to organic production standards.
  - (3) A certificate is proof that the certifying agency is satisfied of the matters set out in subsection (2) (b).
  - (4) A certificate is valid for one year and is not transferable.

### **Appeals of decisions**

- 8** (1) In this section, “**decision**” means the following:
- (a) a decision of the administrator to
    - (i) refuse an application for membership in the Certified Organic Associations of British Columbia, or
    - (ii) suspend or cancel membership in the Certified Organic Associations of British Columbia;
  - (b) a decision of the administrator or a certifying agency to
    - (i) refuse an application for a certificate,
    - (ii) attach conditions to a certificate, or
    - (iii) suspend or cancel a certificate.
- (2) On making a decision, the decision maker must give written notice of the decision to the applicant, member or certificate holder, and the reasons for it.
- (3) A person who receives notice of a decision may appeal the decision by submitting a notice of appeal to the decision maker.
- (4) A notice of appeal
- (a) may be sent no later than 30 days after receiving the notice of decision, and
  - (b) must be in the form and manner required by the decision maker.
- (5) On receiving a notice of appeal, the decision maker must give to the appellant a written notice of hearing.
- (6) A notice of hearing must
- (a) be sent no later than 30 days after receiving the notice of appeal, and
  - (b) include the date, time and place of the hearing.

### **Duties on being certified**

- 9** (1) The standards of the administrator set out in the publication entitled “British Columbia Certified Organic Production Operation Policies and Management Standards” are adopted for the purposes of this regulation as organic production standards.
- (2) An operator who holds a certificate must comply with the following:
- (a) all organic production standards that apply to the production of food or agricultural products by the operator;
  - (b) the conditions, if any, attached to the operator’s certificate.
- (3) For the purpose of determining fees payable under section 3 of the Schedule, an operator who holds a certificate must give to the certifying agency that issued the certificate receipts or other evidence, satisfactory to that certifying agency, of the operator’s gross sales revenue within the meaning of that section.
- (4) An operator must give the receipts or other evidence referred to in subsection (3) to the certifying agency before the date specified, and in the manner required, by that certifying agency.

### **Transition**

- 10** (1) A person who holds a certificate issued under section 5 of the Organic Agricultural Products Certification Regulation before the repeal of that regulation
- (a) is deemed to hold a certificate issued under this regulation, expiring on the earlier of
    - (i) the date on which the certificate would have expired under that regulation, had that regulation not been repealed, and
    - (ii) December 31, 2017, and
  - (b) continues, until the certificate expires, to be subject to all terms and conditions, if any, of the certificate that are consistent with the Act and this regulation.
- (2) This section is repealed January 1, 2018.

### **Protected labels with respect to certification**

- 11** (1) The following are established as protected labels:
- (a) “BC Certified Organic”;
  - (b) “British Columbia Certified Organic”.
- (2) The symbol established by the administrator in the publication entitled “British Columbia Certified Organic Program Symbol User’s Guide” is adopted as a protected label.
- (3) A person must not take an action prohibited under section 9 of the Act with respect to a protected label referred to in subsection (1) or (2) of this section unless the food or agricultural product referred to in that section was produced, distributed or marketed by an operator holding a certificate and acting in compliance with organic production standards.

## **SCHEDULE**

*(section 3 (3))*

### **Definition**

- 1** In this Schedule, “**fiscal year**” means the period beginning April 1 and ending March 31.

### **Certification, appeal and verification fees**

- 2** (1) For the purposes of exercising the powers and performing the duties described in section 4 (1) (a) to (c) of the Act, the administrator may collect and retain a fee that is no greater than \$15 000 per operator per year.
- (2) If the administrator delegates to a certifying agency the power to collect and retain a fee in relation to the exercise of a power or the performance of a duty described in section 4 (1) (a), (b) or (c) of the Act,
- (a) the certifying agency may not, except with the written approval of the administrator, use a method of calculating the amount of the fee that
    - (i) includes the exercise of discretion by that certifying agency, and

- (ii) causes, or may cause, the amount to be different for different members of that certifying agency, and
- (b) the administrator must not give approval for the purpose of paragraph (a) unless satisfied that the certifying agency has a fair process for determining appeals respecting the amount of the fee payable by members.

**Administration, development and education fees**

- 3 (1) In this section, “**gross sales revenue**” means the gross sales revenue received by an operator during the preceding fiscal year in return for the distribution of food and agricultural products produced by the operator.
- (2) For the purposes of exercising the powers and performing the duties described in section 4 (1) (d) (i) to (iii) of the Act, an operator must pay to the administrator a fee in the amount set out in column 3 of the following table opposite the range, set out in column 2, that the amount of the operator’s gross sales revenue falls within.

**Table of Fees**

Column 1 Item	Column 2 Gross Sales Revenue (\$)	Column 3 Fee (\$)
1	< 10k	71.60
2	10k – < 20k	99.10
3	20k – < 30k	126.60
4	30k – < 40k	154.10
5	40k – < 50k	181.60
6	50k – < 60k	209.10
7	60k – < 70k	236.60
8	70k – < 80k	264.10
9	80k – < 90k	291.60
10	90k – < 100k	344.10
11	100k – < 125k	371.60
12	125k – < 150k	399.10
13	150k – < 175k	426.60
14	175k – < 200k	454.10
15	200k – < 300k	534.10
16	300k – < 400k	589.10
17	400k – < 500k	694.10
18	500k – < 750k	797.50
19	750k – < 1M	1 258.00
20	1M – < 2.5M	1 313.00
21	2.5M – < 5M	1 368.00
22	5M – < 7.5M	1 923.00
23	> 7.5M	1 978.00

## APPENDIX 2

**1 Section 1 of the Organic Certification Regulation is amended by repealing the definition of “organic protected label” and substituting the following:**

**“organic protected label”** means a protected label prescribed under section 11 [protected labels with respect to certification] or 12 [protected labels with respect to organic nature]; .

**2 The following section is added:**

**Protected labels with respect to organic nature**

- 12** (1) The term “organic” is adopted as a protected label, including
- (a) other grammatical forms of that term,
  - (b) phonetic representations of that term, and
  - (c) abbreviations and symbols for that term.
- (2) A person must not take an action prohibited under section 9 of the Act with respect to a protected label referred to in subsection (1) of this section unless
- (a) the food or agricultural product referred to in that section
    - (i) has been produced, distributed or marketed by an operator holding a certificate and acting in compliance with organic production standards, or
    - (i) is certified in accordance with the Organic Products Regulations, 2009 (Canada), or
  - (b) the person acts in accordance with a permission given under subsection (3).
- (3) The minister may permit a person, with or without conditions, to use a protected label described in subsection (1) if all of the following conditions are met:
- (a) the minister receives from the person
    - (i) an application in the form and manner required by the minister, and
    - (ii) the information the minister reasonably requires to evaluate the application;
  - (b) the minister is satisfied that the food or agricultural product in connection with which the protected label is intended to be used will be produced, distributed or marketed according to standards that substantially achieve the public health, animal welfare and environmental protection goals reflected by organic production standards;
  - (c) the minister is satisfied that the protected label will be used in a manner that does not mislead the public as to
    - (i) the quality of the food or agricultural product in connection with which the protected label is intended to be used, relative to other food and agricultural products of the same type, or
    - (ii) the extent of independent verification or oversight, if any, of production methods used by the operator.