

Farm Products Marketing Act

R.R.O. 1990, REGULATION 440

VEGETABLES FOR PROCESSING — MARKETING

Consolidation Period: From August 31, 2011 to the e-Laws currency date.

Last amendment: O. Reg. 424/11.

This is the English version of a bilingual regulation.

1. (1) In this Regulation,

“Association” means the Ontario Fruit and Vegetable Processors’ Association; (“Association”)

“green shipper” means any person who buys or acquires cucumbers or peppers from producers for the purpose of selling them to processors, and who may, before selling the cucumbers or peppers to a processor,

(a) clean and separate them,

(b) in the case of cucumbers, brine them to extend their storage life,

(c) inspect them, or

(d) sort them by size, grade, class or variety; (“expéditeur vert”)

“local board” means Ontario Processing Vegetable Growers; (“commission locale”)

“plan” means The Ontario Vegetable Growers’ Marketing-for-Processing Plan; (“plan”)

“processing” means,

(a) 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,

(b) entering into a contract for the purchase of vegetables for the purpose of performing on the vegetables any of the operations mentioned in clause (a), or

(c) entering into a contract for the purpose of having any of the operations mentioned in clause (a) performed on vegetables; (“transformation”)

“processor” means a person engaged in the business of processing vegetables; (“transformateur”)

“producer” means a person engaged in the production of vegetables; (“producteur”)

“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, sweet corn, cucumbers, green peas, peppers, pumpkin and squash or tomatoes. (“légumes”)
R.R.O. 1990, Reg. 440, s. 1; O. Reg. 554/99, s. 1 (1); O. Reg. 247/04, s. 1; O. Reg. 424/11, s. 1 (1).

(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 purposes of this Regulation. O. Reg. 554/99, s. 1 (2).

(3) If a person is both a processor and a green shipper of cucumbers,

(a) the person is deemed not to be a green shipper of cucumbers for the purposes of this Regulation; and

(b) all purchases or sales of cucumbers carried out by the person, whether for processing or green shipping purposes, shall be deemed to be purchases or sales carried out by a processor for the purposes of this Regulation. O. Reg. 424/11, s. 1 (2).

(4) If a person is both a processor and a green shipper of peppers,

(a) the person is deemed not to be a green shipper of peppers for the purposes of this Regulation; and

(b) all purchases or sales of peppers carried out by the person, whether for processing or green shipping purposes, shall be deemed to be purchases or sales carried out by a processor for the purposes of this Regulation. O. Reg. 424/11, s. 1 (2).

2. This Regulation provides 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. R.R.O. 1990, Reg. 440, s. 2.

Licences

3. (1) No person shall commence or continue to engage in the processing of vegetables except under the authority of a licence from the Commission and except in compliance with the terms and conditions of the licence. R.R.O. 1990, Reg. 440, s. 3 (1).

(2) A licence expires on the date set out in the licence as the expiry date. O. Reg. 811/93, s. 1.

(2.1) If any expiry date is not set out in a licence, the licence expires when the licensee ceases to engage in the processing of vegetables. O. Reg. 811/93, s. 1.

(3) Where the Commission issues a licence to a processor, the Commission shall not charge a licence fee to the processor. R.R.O. 1990, Reg. 440, s. 3 (3).

4. The Commission may refuse to grant a licence or may suspend or revoke a licence,

(a) where the applicant or licensee is not qualified by experience or equipment to properly engage in the business for which the application was made or the licence granted; or

(b) where the applicant or licensee has failed to comply with or has contravened the Act, the regulations, the plan or any order or direction of the Commission. R.R.O. 1990, Reg. 440, s. 4; O. Reg. 167/92, s. 1; O. Reg. 811/93, s. 2.

5. The Commission may impose such terms and conditions upon a licence as the Commission considers proper. R.R.O. 1990, Reg. 440, s. 5.

6. Where, after a hearing, the Commission is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of the licence or the Act, the regulations, the plan or any order or direction of the Commission, the Commission may impose a penalty on the applicant or licensee. R.R.O. 1990, Reg. 440, s. 6.

7. (1) The Commission may require that a processor furnish security or a performance bond that shall not exceed 50 per cent of the price payable to producers for vegetables processed during the immediately preceding twelve-month period or proposed to be processed in the ensuring twelve-month period by the processor. O. Reg. 811/93, s. 3; O. Reg. 424/11, s. 2 (1).

(2) The Commission may determine that the security or performance bond is forfeited when the processor who furnished the security or bond fails to comply with or contravenes any term or condition of the processor's licence or the Act, the regulations, the plan or any order or direction of the Commission. O. Reg. 811/93, s. 3; O. Reg. 424/11, s. 2 (2).

8. (1) If a penalty is imposed under section 6 or security or a performance bond is forfeited under subsection 7 (2), the Commission shall pay the penalty or the proceeds of the security or performance bond to the local board for distribution proportionately among the producers of vegetables who sold vegetables to the processor and who did not receive the minimum price for the vegetables, to the extent of the money owing to them. O. Reg. 811/93, s. 3; O. Reg. 424/11, s. 3.

(2) If there are no producers as described in subsection (1) or if there is an excess balance of penalty or proceeds, the Commission shall pay the penalty, proceeds or excess balance into the Consolidated Revenue Fund. O. Reg. 811/93, s. 3.

Powers of Local Board

9. The Commission delegates to the local board the power,

(a) to require persons engaged in producing or marketing vegetables to register their names, addresses and occupations with the local board;

(b) to require persons engaged in producing or marketing vegetables to furnish such information relating to the production or marketing of vegetables, including the completing and filing of returns, as the local board determines;

(c) to appoint persons to inspect the books, records, documents, lands and premises and any vegetables of persons engaged in producing or marketing vegetables;

(d) to appoint persons to enter on lands or premises used for the producing of vegetables and measure the area of land used to produce vegetables;

(e) to stimulate, increase and improve the marketing of vegetables by such means as it considers proper;

(f) to co-operate with a marketing board, local board, marketing commission or marketing agency of Canada or of any province in Canada for the purpose of marketing vegetables; and

(g) to do such acts and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the Act, the regulations and the plan. R.R.O. 1990, Reg. 440, s. 9.

10. The Commission delegates to the local board its powers to make regulations with respect to vegetables,

(a) providing for the licensing of any or all persons before commencing or continuing to engage in the producing or marketing of vegetables;

(b) prescribing or providing for classes of licences and the imposition of terms and conditions on any class of licence;

(c) prohibiting persons from engaging in the producing or marketing of vegetables except under the authority of a licence and except in compliance with the terms and conditions of the licence;

(d) providing for the refusal to grant or renew a licence or for the suspension or revocation of a licence,

(i) 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

(ii) where the applicant or licensee has failed to comply with or has contravened the Act, the regulations, the plan or any order or direction of the Commission, Director or local board or of a marketing agency of Canada;

(e) providing for the imposition, amount, disposition and use of penalties where, after a hearing, the local board is of the opinion that the applicant or licensee 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;

(f) providing for the fixing of licence fees and the payment thereof by any or all persons who are engaged in the producing or marketing of vegetables and the collecting of the licence fees and their recovery by suit in a court of competent jurisdiction;

(g) prescribing the form of licences;

(g.1) providing for the exemption from any or all of the regulations, orders or directions under the plan of any class, variety, grade or size of vegetables, or any person or class of persons engaged in the producing or marketing of vegetables or any class, variety, grade or size of vegetables;

(h) authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing by any producer or processor or by any person engaged in the marketing of vegetables;

(i) providing for the control and regulation of the producing or marketing of vegetables, including the times and places at which vegetables may be produced or marketed;

(j) providing for the control and regulation of agreements entered into by producers of vegetables with persons engaged in marketing or processing vegetables and the prohibition of any provision or clause in such agreements;

(k) requiring any person who produces and processes vegetables to furnish to the local board statements of the amounts of vegetables that he produced in any year and used for processing;

(l) requiring that 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;

(m) requiring any person who produces vegetables to offer to sell and to sell the vegetables through the local board;

(n) prohibiting any person from processing, packing or packaging any vegetables that have not been sold by or through the local board;

(o) requiring any person who receives vegetables to deduct from the money payable for the vegetables, any licence fees payable to the local board by the person from whom the vegetables are received, and to forward the licence fees to the local board; and

(p) requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by persons engaged as green shippers in the marketing of cucumbers or peppers and providing for the administration, forfeiture and disposition of any money or securities so furnished and the proceeds therefrom. R.R.O. 1990, Reg. 440, s. 10; O. Reg. 27/93, s. 1; O. Reg. 554/99, s. 2; O. Reg. 424/11 s. 4.

11. The local board may impose such terms and conditions upon a licence as the local board considers proper. R.R.O. 1990, Reg. 440, s. 11.

12. The Commission limits the powers of the local board under clause 10 (j) to matters that are not inconsistent with terms, conditions and forms of agreement settled under clause 18 (b) by a negotiating agency or awarded under subsection 21 (10) by an arbitration board. R.R.O. 1990, Reg. 440, s. 12; O. Reg. 177/91, s. 1.

13. (1) The Commission authorizes the local board to use any class of licence fees, service charges and other money payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing the Act and the regulations and carrying out the purposes of the plan. R.R.O. 1990, Reg. 440, s. 13 (1).

(2) The Commission authorizes the local board to establish a fund in connection with the plan for the payment of any money that may be required for the purposes mentioned in subsection (1). R.R.O. 1990, Reg. 440, s. 13 (2).

14. The Commission authorizes the local board to require the price or prices payable or owing to the producers for vegetables to be paid to or through the local board. R.R.O. 1990, Reg. 440, s. 14.

15. The Commission authorizes the local board to prohibit the marketing locally within Ontario of any class, variety, grade or size of vegetables. R.R.O. 1990, Reg. 440, s. 15.

Fund

15.1 The local board shall establish a fund with the money transferred to it under Ontario Regulation 672/92 and shall administer the fund in accordance with the following terms:

1. The capital may be invested in securities referred to in section 26 of the Trustee Act, other than first mortgages, charges or hypothecs upon real estate in Canada.

2. The capital of the fund shall not be spent.

3. The income of the fund may be spent for purposes of research, market development and education relating to vegetables.

4. The fund shall be audited annually and the auditor's report shall be submitted to the Commission as part of the audit of the accounts of the local board. O. Reg. 673/92, s. 1.

Negotiating Agencies

15.2 Every year, negotiating agencies shall be established in accordance with this Regulation to adopt or settle the following matters by agreement:

1. Minimum prices for vegetables, including any class, variety, grade or size of vegetables.

2. Terms, conditions and forms of agreements relating to the producing and marketing of vegetables.

3. Any charges, costs or expenses relating to the production or marketing of vegetables. O. Reg. 424/11, s. 5.

15.3 (1) For the purposes of adopting or settling by agreement matters described in section 15.2, every year,

(a) there shall be at least one round of negotiations conducted in accordance with sections 16 to 16.2; and

(b) there may be a second round of negotiations conducted in accordance with sections 17 and 18 and an additional round of negotiations conducted in accordance with section 19. O. Reg. 424/11, s. 5.

(2) Negotiating agencies shall be established for the purposes of each round of negotiations in the following manner:

1. The Association and the local board shall establish negotiating agencies for the purposes of the first round of negotiations in accordance with sections 16 and 16.1.

2. Negotiating agencies are constituted for the purposes of the second round of negotiations under section 17 and any additional round of negotiations under section 19. O. Reg. 424/11, s. 5.

15.4 (1) A negotiating agency for a vegetable shall be composed of the following parties:

1. The local board.

2. Every processor or green shipper of the vegetable that,

i. has been appointed by the Association under section 16 or by the local board under section 16.1 as a party to the negotiating agency for the purposes of the first round of negotiations, or

ii. is constituted as a party to the negotiating agency under section 17 or 19 for the purposes of the second round of negotiations or an additional round of negotiations. O. Reg. 424/11, s. 5.

(2) Subject to subsection (12), the parties to a negotiating agency shall appoint members to the agency who shall negotiate the matters described in section 15.2 on behalf of the parties. O. Reg. 424/11, s. 5.

(3) There shall be no more than 20 members of each negotiating agency and the members shall be appointed as follows:

1. A maximum of 10 individuals shall be appointed by the local board.

2. A maximum of 10 individuals shall be appointed either,

i. by the processor or green shipper, if only one processor or green shipper is a party to the agency, or

ii. jointly by the processors, if any, who are parties to the agency and the green shippers, if any, who are parties to the agency. O. Reg. 424/11, s. 5.

(4) The members of a negotiating agency shall be appointed within the time frame required for each round of negotiations under subsection 16.2 (1), 18 (1) or 19 (4), as the case may be. O. Reg. 424/11, s. 5.

(5) The parties who appoint the members to a negotiating agency shall give the Commission written notice of the appointments within the time frames referred to in subsection (4) and the notice shall include, for each appointee,

(a) his or her name; and

(b) his or her business address and phone number or, if there is no business address and phone number, his or her personal address and phone number. O. Reg. 424/11, s. 5.

(6) If members are appointed jointly to a negotiating agency under subparagraph 2 ii of subsection (3), the notice requirements in subsection (5) are met if notice is given jointly by the processors, if any, who are parties to the agency and the green shippers, if any, who are parties to the agency. O. Reg. 424/11, s. 5.

(7) If the local board or the other parties to a negotiating agency fail to appoint members to the agency or to give the Commission notice of the appointments within the time frame referred to in subsection (4), the Commission shall appoint such members as it deems appropriate to represent the local board or the other parties, as the case may be. O. Reg. 424/11, s. 5.

(8) The members of a negotiating agency appointed under this section shall be individuals and shall not be corporations or other entities. O. Reg. 424/11, s. 5.

(9) A member of a negotiating agency appointed under this section shall hold office from the time of his or her appointment until the earlier of,

(a) the day a successor is appointed; or

(b) January 15 of the year following the year in respect of which he or she was appointed. O. Reg. 424/11, s. 5.

(10) If a member appointed to a negotiating agency becomes unable or unwilling to act before negotiations end under subsection 16.2 (2), 18 (5) or 19 (6), as the case may be, the party or parties who appointed the member under subsection (3) shall, no later than the seventh day after the vacancy arises,

(a) appoint an individual as a replacement; and

(b) give written notice to the Commission of,

(i) the replacement's name, and

(ii) the replacement's business address and phone number or, if he or she does not have a business address and phone number, his or her personal address and phone number. O. Reg. 424/11, s. 5.

(11) If the Commission does not receive notice of a replacement within the time specified under subsection (10), the Commission may appoint the replacement. O. Reg. 424/11, s. 5.

(12) The parties to a negotiating agency constituted for the purposes of the second round of negotiations are not required to appoint members to the agency if they opt not to negotiate their own agreement under subsection 17 (3). O. Reg. 424/11, s. 5.

First Round of Negotiations

16. (1) For the purpose of the first round of negotiations of agreements relating to the producing and marketing of vegetables in any given year, the Association may establish the following number of negotiating agencies on or before the date specified in subsection (5):

1. One negotiating agency for each vegetable, subject to paragraphs 2 and 3.

2. A maximum of two negotiating agencies for cauliflowers and for peppers.

3. A maximum of three negotiating agencies for tomatoes. O. Reg. 424/11, s. 6.

(2) In establishing a negotiating agency for a vegetable, the Association shall determine which processors and green shippers of the vegetable to appoint as parties to the agency. O. Reg. 424/11, s. 6.

(3) The Association may appoint as parties to a negotiating agency,

(a) in the case of a negotiating agency for a vegetable other than cucumbers or peppers, one or more processors of the vegetable; and

(b) in the case of a negotiating agency for cucumbers or peppers,

(i) one or more processors, but no green shippers,

(ii) one or more green shippers, but no processors, or

(iii) a combination of one or more processors and one or more green shippers of the vegetable. O. Reg. 424/11, s. 6.

(4) On or before the date specified in subsection (5) in any given year, the Association shall,

(a) give the local board and the Commission written notice of every negotiating agency that it has established for the year, together with the name and business address and phone number of each processor and green shipper that it has appointed as a party to the agency; and

(b) give written notice of their appointment to each processor and green shipper appointed as a party to a negotiating agency in the year, together with the name and business address and phone number of any other processor and green shipper appointed as a party to the same negotiating agency. O. Reg. 424/11, s. 6.

(5) The Association shall establish negotiating agencies under this section and give the notices required under subsection (4),

(a) in the case of a negotiating agency established for cucumbers, on or before October 1 of any given year; and

(b) in the case of any other negotiating agency, on or before November 23 of any given year. O. Reg. 424/11, s. 6.

16.1 (1) After the Association has established negotiating agencies for a given year under section 16, the local board may establish in accordance with this section additional negotiating agencies for the purposes of the first round of negotiations of agreements relating to the producing and marketing of vegetables for the same year. O. Reg. 424/11, s. 6.

(2) Any processor or green shipper of a vegetable that has not been appointed as a party to a negotiating agency established by the Association under section 16 may be appointed by the local board as a party to a negotiating agency. O. Reg. 424/11, s. 6.

(3) For each negotiating agency that it establishes, the local board may appoint as parties to the agency no more than,

(a) in the case of a negotiating agency for a vegetable other than cucumber and peppers, a single processor; and

(b) in the case of a negotiating agency for cucumbers or peppers,

(i) a single processor, or

(ii) a single green shipper. O. Reg. 424/11, s. 6.

(4) On or before the date specified in subsection (5) in any given year, the local board shall,

(a) give the Association and the Commission written notice of every negotiating agency that it has established for the year, together with the name and business address and phone number of each processor and green shipper that it has appointed as a party to the agency; and

(b) give written notice of their appointment to each processor and green shipper appointed as a party to a negotiating agency in the year. O. Reg. 424/11, s. 6.

(5) The local board shall establish negotiating agencies and give the notices required under subsection (4),

(a) in the case of a negotiating agency established for cucumbers, on or before October 22 of any given year; and

(b) in the case of any other negotiating agency, on or before December 15 of any given year. O. Reg. 424/11, s. 6.

16.2 (1) The parties to a negotiating agency established under section 16 or 16.1 shall appoint the members to conduct negotiations on their behalf on or before,

(a) in the case of a negotiating agency for cucumbers, November 15 of each year; and

(b) in the case of a negotiating agency for any other vegetable, January 15 of each year. O. Reg. 424/11, s. 6.

(2) The first round of negotiations ends at 4:00 p.m. on the day set out in Column II of the Schedule to this Regulation or such earlier time at which an agreement is reached. O. Reg. 424/11, s. 6.

Second Round of Negotiations

17. (1) After the end of the first round of negotiations, the local board, together with each processor and each green shipper of a vegetable that was not a party to a negotiating agency established for that vegetable for the purposes of the first round of negotiations, is constituted as a separate negotiating agency for that vegetable for the purposes of the second round of negotiations. O. Reg. 424/11, s. 7.

(2) On or before the day specified for the relevant vegetable in Column III of the Schedule to this Regulation, the local board shall send one of the following documents to every processor and green shipper who is a party to a negotiating agency constituted under subsection (1):

1. A proposed agreement relating to the producing or marketing of the relevant vegetable.

2. A notice of intent to negotiate. O. Reg. 424/11, s. 7.

(3) On or before the day specified for the relevant vegetable in Column IV of the Schedule to this Regulation, a processor or green shipper of a vegetable who receives a document from the local board under subsection (2) shall reply to the local board in one of the following ways:

1. By sending the local board and the Commission a written notice of intent to negotiate.

2. By advising the local board in writing of its agreement to be bound by one of the agreements that are or will be concluded, or one of the awards that are or will be made, as the case may be, for the relevant vegetable in the first round of negotiations.

3. If the document received was a proposed agreement, by signing and returning the agreement to the local board. O. Reg. 424/11, s. 7.

(4) Paragraph 2 of subsection (3) does not apply to processors of tomatoes. O. Reg. 424/11, s. 7.

18. (1) If a processor or green shipper of a vegetable gives the local board a notice of intent to negotiate under paragraph 1 of subsection 17 (3), the local board and either the processor or green shipper, as the case may be, shall appoint members to the agency in accordance with section 15.4 within two days after the applicable day set out in Column IV of the Schedule to this Regulation. O. Reg. 424/11, s. 7.

(2) If a processor or green shipper of a vegetable has received a document from the local board under subsection 17 (2) and fails to reply to it in accordance with subsection 17 (3), the local board may impose on the processor or green shipper one of the agreements that are or will be concluded, or one of the awards that are or will be made, as the case may be, for the relevant vegetable in the first round of negotiations. O. Reg. 424/11, s. 7.

(3) An agreement or award imposed under subsection (2) is not valid unless the local board notifies the processor or green shipper of the agreement or award not later than three days before the day set out in Column V of the Schedule to this Regulation. O. Reg. 424/11, s. 7.

(4) An agreement or award adopted under paragraph 2 of subsection 17 (3) or imposed under subsection (2) shall be deemed to be an agreement or award for the purposes of subsection 7 (4) of the Act. O. Reg. 424/11, s. 7.

(5) The second round of negotiations ends at 4:00 p.m. on the day set out in Column V of the Schedule to this Regulation or such earlier time at which an agreement is reached. O. Reg. 424/11, s. 7.

Additional Negotiations

19. (1) If a processor or green shipper of a vegetable was not a party to a negotiating agency for that vegetable for the purposes of the first or second round of negotiations after the day set out in Column V of the Schedule to this Regulation, the local board shall,

(a) impose an agreement or award for that vegetable on the processor or green shipper; or

(b) notify the processor or green shipper and the Commission in writing of its intention to negotiate. O. Reg. 424/11, s. 8.

(2) If a processor or green shipper receives a notice of intent to negotiate from the local board, the local board and either the processor or green shipper, as the case may be, are constituted as a negotiating agency for that vegetable for the purposes of the additional round of negotiations for the year in question. O. Reg. 424/11, s. 8.

(3) The parties to a negotiating agency constituted under subsection (2) shall appoint members to the agency in accordance with section 15.4. O. Reg. 424/11, s. 8.

(4) The Commission shall determine the deadline date for,

(a) the appointment of members to a negotiating agency by the parties under subsection (3); and

(b) the conclusion of negotiations by a negotiating agency constituted under subsection (2). O. Reg. 424/11, s. 8.

(5) An agreement or award imposed under clause (1) (a) shall be deemed to be an agreement or award for the purposes of subsection 7 (4) of the Act. O. Reg. 424/11, s. 8.

(6) A round of negotiations under this section ends at 4:00 p.m. on the day determined by the Commission under clause (4) (b) or such earlier time at which an agreement is reached. O. Reg. 424/11, s. 8.

Conciliation and Arbitration

20. (1) A negotiating agency for a vegetable may refer matters to conciliation in accordance with this section at any time,

(a) in the case of a negotiating agency established for the purposes of the first round of negotiations, before the date set out in Column II of the Schedule to this Regulation;

(b) in the case of a negotiating agency constituted for the purposes of the second round of negotiations, before the date set out in Column V of the Schedule to this Regulation; and

(c) in the case of a negotiating agency constituted for any additional round of negotiations, before the date for conclusion of negotiations determined by the Commission under subsection 19 (4). O. Reg. 424/11, s. 9 (2).

(2) The Commission shall appoint a conciliator acceptable to all members of the negotiating agency. O. Reg. 424/11, s. 9 (2).

(3) The negotiating agency shall submit to the conciliator a statement of matters in dispute. O. Reg. 46/91, s. 4.

(4) The conciliator shall,

(a) endeavour to effect agreement on any matter referred to the conciliator under subsection (3); and

(b) recommend adoption of any agreement effected under clause (a) to the negotiating agency. O. Reg. 46/91, s. 4.

21. (1) A negotiating agency shall immediately notify the Commission in writing if the negotiating agency has not arrived at a comprehensive settlement of matters set out in section 15.2,

(a) in the case of a negotiating agency established for the purposes of the first round of negotiations, by 4:00 p.m. on the date set out in Column II of the Schedule to this Regulation;

(b) in the case of a negotiating agency constituted for the purposes of the second round of negotiations, by 4:00 p.m. on the date set out in Column V of the Schedule to this Regulation; and

(c) in the case of a negotiating agency constituted for any additional round of negotiations, by 4:00 p.m. on the date determined by the Commission under subsection 19 (4). O. Reg. 424/11, s. 10 (1).

(2) The notice referred to in subsection (1) shall be accompanied by,

(a) one or more statements of the matters in dispute;

(b) a statement of the final position of the members of the negotiating agency who were appointed by the local board; and

(c) a statement of the final position of the members of the negotiating agency who were appointed under paragraph 2 of subsection 15.4 (3). O. Reg. 424/11, s. 10 (1).

(3) The Commission shall refer the matters in dispute to arbitration. O. Reg. 46/91, s. 5.

(4) The arbitration shall be conducted by an arbitration board consisting of,

(a) three members, if all the members of the negotiating agency consent; and

(b) one member, in every other case. O. Reg. 46/91, s. 5; O. Reg. 233/94, s. 6 (1).

(5) If more than one arbitration is required for the same vegetable, the same arbitration board shall conduct the arbitrations. O. Reg. 46/91, s. 5.

(6) The members of a negotiating agency that requires arbitration shall appoint the member or members of the arbitration board. O. Reg. 46/91, s. 5.

(7) If the members of a negotiating agency cannot agree on the members of the arbitration board within 48 hours after the relevant deadline date set out in subsection (1), the Commission shall appoint the arbitration board. O. Reg. 424/11, s. 10 (2).

(8) If a member of an arbitration board dies, resigns or becomes unable to act before the arbitration board has made an award, the vacancy shall be filled by the Commission and the arbitration shall be continued and completed by the arbitration board as newly constituted. O. Reg. 424/11, s. 10 (2).

(9) An arbitration board shall not make an award on a matter until at least three days after the hearing has been completed. O. Reg. 48/97, s. 1.

(9.1) If the parties to an arbitration reach agreement on a matter before an award on the matter is made, the agreement forms part of the arbitration board's award. O. Reg. 48/97, s. 1.

(9.2) If the parties to an arbitration reach an agreement on all matters before an award is made,

(a) the arbitration board shall not make an award; and

(b) the agreement reached by the parties to the arbitration shall be deemed to be an agreement for the purposes of subsection 7 (4) of the Act. O. Reg. 424/11, s. 10 (3).

(10) Subject to subsection (9.1), an arbitration board shall, in making an award, select without modification one of the statements of final position filed with the Commission under subsection (2), except that, if the parties to an arbitration agree, the arbitration board may make individual awards with respect to one or more matters in dispute by selecting the position set out on the matter or matters in one of the statements of final position. O. Reg. 424/11, s. 10 (4).

(11) If only one statement of final position has been filed with the Commission under subsection (2), subsection (10) does not apply and the arbitration board shall select that statement as the award. O. Reg. 233/94, s. 6 (3); O. Reg. 424/11, s. 10 (5).

22. (1) For the purposes of sections 15.3 to 21, if something is required to be done on or before a day specified in this Regulation that is not a business day in a particular year, the thing must be done on or before the next business day. O. Reg. 424/11, s. 11.

(2) In this section,

“business day” means a day that is not,

(a) Saturday, or

(b) a holiday within the meaning of section 88 of the Legislation Act, 2006. O. Reg. 424/11, s. 11.

Schedule

Item

Column I

Column II

Column III

Column IV

Column V

Vegetable

Initial Round Deadline

Local Board Offer Deadline

Processor or Green Shipper Determination Deadline

Second Round Deadline

1.
Cucumbers
December 5
December 15
December 31
January 7

2.
Peas
February 15
February 24
March 3
March 15

3.
Sweet Corn
February 22
March 3
March 13
March 22

4.
Tomatoes
March 1
March 13
March 20
April 1

5.
Carrots
March 6
March 13
March 23
March 29

6.
Cabbage
March 7
March 14
March 21
March 28

7.
Peppers
March 8
March 15
March 22
March 29

8.
Beets
March 19
March 26
April 2
April 9

9.

Cauliflower

March 19

March 26

April 2

April 9

10.

Green and Waxed Beans

March 21

March 28

April 4

April 11

11.

Lima Beans

March 22

March 29

April 5

April 12

12.

Pumpkin and Squash

March 22

March 29

April 5

April 12

O. Reg. 424/11, s. 12.