



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

ALBERTA GRAINS COMMISSION REGULATION

Alberta Regulation 105/2023

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Extract

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ALBERTA REGULATION 105/2023

Marketing of Agricultural Products Act

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Definitions

1(1) In this Regulation, "Plan" means the *Alberta Grains Plan Regulation* (AR 102/2023).

(2) Words or expressions defined in the Plan have the same meaning when used in this Regulation.

Service charges

2 A producer who sells a regulated product must pay to the Commission a service charge in the amount of

- (a) \$1.20 per metric tonne or portion of a metric tonne of barley sold, and
- (b) \$1.09 per metric tonne or portion of a metric tonne of wheat sold.

Variation of service charges

3(1) The Commission may, from time to time, change the amount of a service charge.

(2) Notwithstanding subsection (1), a change in the amount of a service charge does not take effect until it has been approved by a majority of the eligible producers at either an annual Commission meeting or a special Commission meeting and approved by the Council.

Collection and payment of service charges

4(1) A dealer who

- (a) purchases regulated product from a producer, or
- (b) acquires regulated product from a producer for sale on the producer's behalf to a third party

must collect the service charge for the regulated product by deducting the amount of the service charge from any proceeds payable to or on behalf of the producer.

(2) A dealer who collects a service charge must pay, subject to any directions given by the Commission, the service charge to the Commission within 30 days from the end of the month in which the service charge was collected.

(3) A dealer who is required to collect and pay to the Commission a service charge payable by a producer must provide to the Commission, when the dealer pays the service charge to the Commission, in respect of that producer, the following information:

- (a) in respect of each regulated product, the total amount of regulated product in metric tonnes or portions thereof obtained from the producer;
- (b) in respect of wheat, the wheat class;
- (c) in respect of barley, whether the barley is malt barley or feed barley;
- (d) the total amount of the service charge being paid on behalf of the producer for each regulated product;
- (e) the name, mailing address, telephone number and email address of the producer.

(4) A dealer who fails to

- (a) collect a service charge in accordance with subsection (1), or
- (b) pay a service charge to the Commission in accordance with subsection (2)

is liable to the Commission for the amount of the service charge.

(5) A producer who sells a regulated product to a person who is not a dealer must pay the service charge directly to the Commission within 30 days from the end of the month in which the regulated product was sold.

(6) A producer who is required to pay a service charge directly to the Commission must provide to the Commission, when the producer pays the service charge to the Commission, the following information:

- (a) in respect of each regulated product, the total amount of regulated product in metric tonnes or portions thereof sold;
- (b) in respect of wheat, the wheat class;
- (c) in respect of barley, whether the barley is malt barley or feed barley;
- (d) the total amount of the service charge being paid for each regulated product;
- (e) the name, mailing address, telephone number and email address of the producer.

Refund of service charges

5(1) A service charge paid by or on behalf of a producer is refundable to the producer on request of the producer in accordance with this section.

(2) A request for a refund of a service charge must be

- (a) in a form, and include the information, required by the Commission, and
- (b) accompanied with a cheque stub or other documentary evidence provided by the dealer or producer showing that the service charge was deducted or paid.

(3) A request for a refund must be received by the Commission at its office

- (a) prior to the end of August, for a service charge collected during the period commencing on the previous February 1 and ending on July 31, and
- (b) prior to the end of February, for a service charge collected during the period commencing on the previous August 1 and ending on January 31.

(4) Subject to subsection (5), a request for a refund that does not comply with subsections (2) and (3) shall not be considered by the Commission and the producer is not entitled to a refund in respect of the service charge in question.

(5) The Commission may consider a request for a refund that does not comply with subsection (2) or (3) if the Commission is satisfied that extenuating circumstances exist that warrant it doing so and may

- (a) refund the service charge in question, or
- (b) refuse to refund the service charge in question.

(6) The Commission must refund the service charge to the producer

- (a) within 120 days after the end of August, if the request complies with subsection (2) and was received in accordance with subsection (3)(a),
- (b) within 120 days after the end of February, if the request complies with subsection (2) and was received in accordance with subsection (3)(b), or
- (c) within 120 days after receipt of the request, if the request was considered, and the service charge is to be refunded, under subsection (5).

Dealer's licence required

6(1) A person shall not carry on the business of a dealer in the regulated product unless that person is licensed as a dealer under this Regulation.

(2) Notwithstanding subsection (1), if a producer markets regulated product produced by that producer, that producer does not require a dealer's licence.

Application for dealer's licence

7(1) A person may apply to the Commission for a licence to operate as a dealer.

- (2) An application for a dealer's licence must be in a form, and include the information, required by the Commission.
- (3) The Commission may require an applicant for a dealer's licence to submit any additional information the Commission considers necessary.
- (4) A dealer may apply for renewal of a licence by submitting an application for a licence under this section.
- (5) The Commission must consider every application that it receives under this section.

Issuing of dealer's licence

- 8(1)** If the Commission is satisfied that a dealer's licence should be issued to an applicant, the Commission must issue to the applicant a dealer's licence in a form established by the Commission.
- (2) A dealer's licence expires on July 31 of the next odd numbered year occurring after the issuance of the licence.
- (3) Notwithstanding subsection (2), a dealer's licence issued in an odd numbered year before July 31 of that year expires on that July 31.
- (4) A dealer's licence is not transferable and becomes void when the dealer's business is sold, transferred, assigned or otherwise disposed of.
- (5) A dealer's licence issued by the Commission
 - (a) is a licence to be engaged in the activity stated in the licence,
 - (b) is not an endorsement by the Commission of the licence holder, and
 - (c) shall not be represented by the licence holder or any other person as an endorsement by the Commission.

Licence refused, suspended, cancelled, not renewed

- 9(1)** The Commission may refuse to issue a dealer's licence
 - (a) if the applicant fails to provide information under section 7(2) or additional information under section 7(3) required by the Commission,
 - (b) if the applicant has contravened

- (i) the Act,
- (ii) the Plan,
- (iii) this Regulation,
- (iv) any other regulation made under the Act in respect of the Plan,
- (v) an order or direction of the Council or the Commission, or
- (vi) any other Act, regulation or order that applies to the applicant or its business,

or

- (c) for any other reason the Commission considers appropriate.

(2) The Commission may suspend or cancel a dealer's licence or refuse to renew a dealer's licence

- (a) if the dealer has contravened

- (i) the Act,
- (ii) the Plan,
- (iii) this Regulation,
- (iv) any other regulation made under the Act in respect of the Plan,
- (v) an order or direction of the Council or the Commission, or
- (vi) any other Act, regulation or order that applies to the applicant or its business,

or

- (b) for any other reason the Commission considers appropriate.

(3) If the Commission refuses to issue a licence or cancels, suspends or refuses to renew a licence, the Commission must advise the applicant or dealer in writing of its decision.

(4) The Commission may

- (a) suspend a licence for a period of time that it considers appropriate, or
 - (b) in the case of a licence that is suspended, remove the suspension.
- (5)** If the Commission refuses to issue a licence or cancels, suspends or refuses to renew a licence, the person who was refused a licence or whose licence was cancelled, suspended or not renewed
- (a) must, on receiving notice of the Commission's decision, immediately cease carrying on the activity authorized by the licence, and
 - (b) may make an application to the Commission pursuant to Part 5 of the Act and the *Review and Appeal Regulation* (AR 199/2016).
- (6)** The Commission, pursuant to this section, may issue a licence to an applicant whose licence was refused, cancelled or not renewed.

Inspection of records

- 10(1)** A person who is required by this Regulation to provide records or other information must
- (a) retain the records or other information for a minimum of one year from the date the records or other information was made, and
 - (b) as requested by the Commission,
 - (i) make the records or information available for inspection during normal business hours, or
 - (ii) deliver the records or information to the Commission within 30 days from the date the Commission makes the request.
- (2)** A dealer, when requested by the Commission, must assist the Commission in the compilation of lists of producers.

Use of funds

- 11(1)** In this section, "funds" includes
- (a) service charges,

- (b) any other money received or earned by the Commission, and
- (c) any interest that accrues from maintaining the money referred to in clauses (a) and (b).

(2) Any funds received by the Commission must be used by the Commission for the purpose of paying its expenses and administering and enforcing

- (a) the Act,
- (b) the Plan,
- (c) this Regulation,
- (d) any other regulation or bylaw made under the Act in respect of the Plan or the Commission, and
- (e) any order or direction of the Council or the Commission.

Interest

12 A producer or a dealer must pay to the Commission interest on any late payment of service charges at the rate of 2% per month calculated on the balance due.

Legal action

13 The Commission may commence and maintain any legal action necessary to

- (a) enforce the payment of service charges payable under this Regulation,
- (b) recover any interest payable under this Regulation, and
- (c) recover any legal costs on a solicitor-client basis incurred in the action.

Expiry

14 For the purpose of ensuring that this Regulation is reviewed for ongoing relevance and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on July 31, 2030.

Transitional

15 A person who held a dealer's licence with an expiry date of July 31, 2023 under a regulation referred to in section 16 as the

regulation read immediately before the coming into force of this Regulation is deemed to hold a dealer's licence with an expiry date of December 31, 2023 issued under section 8 of this Regulation.

Repeal

16 The following regulations are repealed:

- (a) *Alberta Barley Commission Regulation* (AR 123/99);
- (b) *Alberta Wheat Commission Regulation* (AR 137/2012).

Coming into force

17 This Regulation comes into force on August 1, 2023.



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