



Province of Alberta

## MARKETING OF AGRICULTURAL PRODUCTS ACT

# **ALBERTA WHEAT COMMISSION REGULATION**

### **Alberta Regulation 137/2012**

With amendments up to and including Alberta Regulation 131/2013

### Office Consolidation

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### **Note**

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(Consolidated up to 131/2013)

**ALBERTA REGULATION 137/2012**

**Marketing of Agricultural Products Act**

**ALBERTA WHEAT COMMISSION REGULATION**

*Table of Contents*

|           |  |
|-----------|--|
| <b>1</b>  | Definitions  |
| <b>2</b>  | Service charges                                    |
| <b>3</b>  | Variation of service charge                        |
| <b>4</b>  | Collection of service charge                       |
| <b>5</b>  | Refund of service charges                          |
| <b>6</b>  | Dealer's licence required                          |
| <b>7</b>  | Application for dealer's licence                   |
| <b>8</b>  | Granting of dealer's licence                       |
| <b>9</b>  | Licence refused, suspended, cancelled, not renewed |
| <b>10</b> | Inspection of records                              |
| <b>11</b> | Use of funds                                       |
| <b>12</b> | Interest on late payment of service charges        |
| <b>13</b> | Legal action                                       |
| <b>14</b> | Expiry   |

**Definitions**

**1(1)** In this Regulation,

- (a) "Commission" means the Alberta Wheat Commission;
- (b) "Plan" means the Alberta Wheat Commission Plan.

**(2)** Words used in this Regulation that are defined in the *Alberta Wheat Commission Plan Regulation* have the same meaning as defined in that Regulation.

**Service charges**

**2** Any producer who sells any regulated product shall pay to the Commission a service charge in the amount of \$0.70 per metric tonne or portion of a metric tonne of regulated product sold.

**Variation of service charge**

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

(2) Notwithstanding subsection (1), a change in the amount of the service charge shall not be effective until it has been approved by a vote of the producers at an annual Commission meeting or a special Commission meeting.

**Collection of service charge**

**4(1)** Any 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

shall 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) Any dealer who collects a service charge shall, subject to any directions given by the Commission, pay the amount of the service charge to the Commission within 55 days from the end of the month within which the service charge was collected.

(3) Any dealer who is required to collect and pay to the Commission the service charge payable by a producer shall, when that dealer pays the service charge to the Commission, provide to the Commission, in respect of that producer, a summary detailing

- (a) the total amount of regulated product in metric tonnes or portions thereof obtained from the producer,
- (b) the wheat class of the regulated product,
- (c) the total amount of the service charge being paid on behalf of the producer, and
- (d) the name, mailing address, telephone number and, if available, e-mail address of the producer.

(4) A dealer who fails

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

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

**Refund of service charges**

**5(1)** Any service charge that is paid by or on behalf of a producer is refundable to the producer on request of the producer.

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

- (a) be made in writing on a form that is provided by or is acceptable to the Commission, and
- (b) contain the following information:
  - (i) the producer's name;
  - (ii) the producer's mailing address, telephone number and, if available, e-mail address;
  - (iii) the wheat class or wheat classes of the regulated product sold;
  - (iv) the total quantity of regulated product sold in metric tonnes or portions thereof and total amount of service charge deducted;
  - (v) the name, mailing address, telephone number and, if available, e-mail address of any dealer who collected the service charge on behalf of the producer;
  - (vi) any other information in respect of the refund that is requested by the Commission.

**(3)** Requests for refunds must be received by the Commission at its head office

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

**(4)** Any request for a refund that is not received by the Commission within the time periods specified under subsection (3) shall not be considered by the Commission, and the producer will not be entitled to a refund in respect of the service charges in question.

**(5)** The Commission shall refund the service charge to the producer within 90 days from the end of the period in which the request for a refund of the service charges is received, if the request complies with this Regulation.

**Dealer's licence required**

**6** No person shall carry on the business of a dealer in the regulated product unless that person is licensed as a dealer under this Regulation.

**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 under subsection (1) must be in a form prescribed by the Commission and include

- (a) the name, mailing address, telephone number and, if available, e-mail address of the applicant,
- (b) the street address of the applicant, if it is different from the mailing address,
- (c) the Canadian Grain Commission licence information, and
- (d) any other information the Commission may require.

**Granting of dealer's licence**

**8(1)** If the Commission is satisfied that a dealer's licence should be granted to the applicant, the Commission shall grant to the applicant a dealer's licence in a form prescribed 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 that is 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 grant a dealer's licence

- (a) if the applicant fails to provide information or additional information required by the Commission under section 7(2),
- (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 an administrative order or directive of the Commission, or
  - (vi) any other Act, regulation or order that applies to the applicant or its business,
- (c) if the applicant does not hold a licence issued by the Canadian Grain Commission, or
- (d) 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 an administrative order or directive of the Commission, or
  - (vi) any other Act, regulation or order that applies to the dealer or its business,

- (b) if the dealer held a licence issued by the Canadian Grain Commission and that licence has been suspended, cancelled or not renewed, or
- (c) 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,

- (a) the dealer must, on receiving notice of the Commission's decision, immediately cease carrying on the activity authorized by the licence, and
- (b) the applicant or dealer may make an application to the Commission pursuant to Part 5 of the Act and the *Review and Appeal Regulation* (AR 84/2010).

AR 137/2012 s9;62/2013;131/2013

#### **Inspection of records**

**10(1)** A person who is required by this Regulation to keep records or other information, including the information referred to in section 4(3), 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 15 days from the date the request is received by that person.

**(2)** A dealer must, when requested by the Commission, assist the Commission in the compilation of lists of producers.



**Use of funds**

**11** Any funds received by the Commission under the Plan and any interest that accrues in respect of those funds shall be used by the Commission for the purposes of paying its expenses and administering the Plan and the regulations.

**Interest on late payment of service charges**

**12** Interest must be paid to the Commission for any late payment of service charges at the rate of 1% per month calculated on the balance due.

**Legal action**

**13** The Commission

- (a) may commence and maintain any legal action that is necessary to enforce the payment of service charges that are payable as required by this Regulation, and
- (b) shall recover solicitor-client legal costs incurred with respect to an action described in clause (a).

**Expiry**

**14** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on April 30, 2018.







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