



Province of Alberta

## MARKETING OF AGRICULTURAL PRODUCTS ACT

# **ALBERTA OAT GROWERS COMMISSION REGULATION**

**Alberta Regulation 138/2012**

Extract

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**ALBERTA REGULATION 138/2012**

**Marketing of Agricultural Products Act**

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**Interpretation**

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

- (a) "Act" means the *Marketing of Agricultural Products Act*;
- (b) "Commission" means the commission established under the Plan with the name "Alberta Oat Growers Commission";
- (c) "dealer" means a person or business operation purchasing or acquiring regulated product from a producer and includes, but is not limited to,

- (i) elevator companies, grain companies, grain dealers, food processors, feed manufacturers and livestock feeders, and
- (ii) persons who acquire regulated product from the producer for sale on the producer's behalf;
- (d) "Plan" means the *Alberta Oat Growers Commission Plan Regulation*;
- (e) "producer" means a producer as defined in the Plan;
- (f) "regulated product" means regulated product as defined in the Plan.

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

#### **Service charges**

**2** Any producer who sells any regulated product shall pay to the Commission a service charge in the amount of \$0.50 per metric tonne or portion of a metric tonne of regulated product sold.

#### **Variation of service charges**

**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 is not 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 charges**

**4(1)** All dealers must deduct the amount of the service charge from any proceeds payable to or on behalf of the producer where a dealer

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

(2) Any dealer who collects a service charge must, subject to any directions given by the Commission, pay the amount of the service charge to the Commission within 45 days from the end of the month within which the service charge was collected.

**(3)** Notwithstanding subsection (2), if an arrangement is made between the Commission and the person collecting the service charge establishing time periods, other than the ones provided for under subsection (2), under which the service charges are to be paid to the Commission, the dealer must pay the service charges to the Commission in accordance with that arrangement unless otherwise directed by the Commission.

**(4)** Notwithstanding subsection (3), if a dealer fails

- (a) to deduct a service charge in respect of regulated product sold by or on behalf of a producer in accordance with subsection (1), and
- (b) to pay the service charge to the Commission in accordance with subsection (2),

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

**(5)** Any person who is required to collect and pay to the Commission the service charge payable by a producer must, when that person pays the service charge to the Commission, provide to the Commission, in respect of that producer, a summary detailing the following information:

- (a) the name and address of the producer;
- (b) the type and crop class of the regulated product, if available;
- (c) the dollar value and quantity of the regulated products obtained from the producer;
- (d) the amount of the service charge being paid on behalf of the producer.

#### **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 established by the Commission, and
- (b) contain the following information:
  - (i) the producer's name;

- (ii) the producer's mailing address and telephone number;
- (iii) the type and crop class of the regulated product, if available;
- (iv) the dollar amount and quantity of the regulated product sold;
- (v) the name and address of any dealer who collected the service charge on behalf of the producer;
- (vi) any other information in respect of the refund not referred to in subclauses (i) to (v) 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 applicable time period referred to in subsection (3) is not to be considered by the Commission and the producer is not entitled to a refund in respect of which the request was made.

**(5)** Notwithstanding subsection (4), the Commission may, if it is satisfied that extenuating circumstances exist that warrant its doing so, consider an application for a refund that is received after the applicable time period referred to in subsection (3).

**(6)** Subject to subsection (4), the Commission must refund the service charge to the producer within 90 days after the end of the period to which the request for the refund relates.

**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)** Any person who wishes to market or process the regulated product must apply for and obtain a dealer's licence from the Commission.

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

- (a) the name, telephone number and mailing address of the applicant,
- (b) the address of the applicant, if it is different from the mailing address, and
- (c) such other information as 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 must grant the applicant a dealer's licence in a form prescribed by the Commission.

**(2)** The Commission must grant a dealer's licence in a form prescribed by the Commission to a dealer known to the Commission.

**Authority of dealer's licence**

**9** A dealer's licence is authority for the dealer to receive, market or process the regulated product in accordance with this Regulation.

**Disposal of dealer's licence**

**10** A dealer's licence is valid unless suspended or cancelled or until the dealer's business is sold, transferred, assigned or otherwise disposed of.

**Refusal to grant a dealer's licence**

**11** The Commission may refuse to grant a dealer's licence

- (a) if it is satisfied that the applicant will not comply with the Act, the Plan, this or other regulations that apply to the applicant or orders or directions of the Council or the Commission, or
- (b) for any other lawful reason the Commission considers proper.

**Suspension or cancellation of dealer's licence**

**12** The Commission may suspend or cancel a dealer's licence if the Commission is of the opinion that a holder of a dealer's licence has

- (a) failed to comply with the Act, the Plan or any regulation under the Act, or
- (b) failed to comply with any order or direction of the Council or the Commission.

**Hearing**

**13(1)** The Commission must give written notice of its decision to any person who is refused a licence or whose licence is suspended or cancelled, as the case may be.

**(2)** Where a person receives a notice under subsection (1), that person may make application to the Commission for a hearing to show cause why the dealer's licence should not be refused, suspended or cancelled, as the case may be.

**(3)** Where the Commission receives an application under subsection (2), it must give notice to the person who made the application of the date, place and time that a hearing into the matter will be held.

**(4)** At the hearing referred to in subsection (3), the person who made the application under subsection (2) must be given an opportunity

- (a) to show cause why a dealer's licence should be granted, or
- (b) to show cause why that person's dealer's licence should not be suspended or cancelled,

as the case may be.

**(5)** Following a hearing under this section, the Commission must give written notice of its decision to the person in respect of whom the hearing was held.

**(6)** A dealer who receives a notice of suspension or cancellation under this section must, on receipt of the notice, immediately cease receiving the regulated product.

**Report to Commission**

**14** A dealer must

- (a) record for each month

- (i) the total volume of regulated product purchased by the dealer from producers, and
  - (ii) the total amount paid by the dealer to producers for that regulated product so purchased,
- and
- (b) at the conclusion of the month report to the Commission the amounts so recorded for that month.

**Information**

**15** The Commission may request from a producer or a dealer the following information:

- (a) the amount of regulated product grown by a producer or to which the producer is entitled under a crop share arrangement;
- (b) the amount of regulated product marketed or processed by a producer and the details of the marketing;
- (c) the amount of regulated product marketed or processed by a person and the manner in which it is marketed;
- (d) such other general information relating to production, marketing or processing of the regulated product that the Commission requires to carry out its purpose under the Act and the Plan.

**Inspection of records**

**16(1)** Where the Commission is of the opinion that circumstances warrant it, the Commission may request in writing that a dealer produce for the Commission's inspection any record in the possession or under the control of the dealer that relates to the collection of service charges by the dealer.

**(2)** Where a dealer receives a request in writing under subsection (1), the dealer must comply with the request in accordance with its terms.

**Use of funds**

**17** Any funds received by the Commission under the Plan must be used by the Commission for purposes of paying its expenses and administering the Plan and the regulations.

**Interest**

**18** Interest must be paid to the Commission by the dealer for any late payment of service charges at the rate of 1.5% per month calculated on the balance due.

**Legal action**

**19** The Commission may commence and maintain any legal action that is necessary to enforce the payment of service charges that are payable under the Plan and this Regulation.

**Expiry**

**20** 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 July 31, 2017.





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