

(Consolidated up to 35/2012)

ALBERTA REGULATION 285/96

Marketing of Agricultural Products Act

ALBERTA PORK PRODUCERS' COMMISSION REGULATION

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Schedules

Definitions

1 In this Regulation,

(a) “Act” means the Marketing of Agricultural Products Act;

(a.1) “approved swine identification” means swine identification as approved by the Corporation;

(b) “buyer” means a person who buys and includes a processor;

(c) “Corporation” means the Alberta Pork Producers’ Development Corporation;

(c.1) “custom kill” means the processing by a processor on a fee for services basis of hogs that are owned by a person other than the processor;

(c.2), (d) repealed AR 35/2012 s2;

(e) “feeder” means a hog, other than a weaner, that is sold to a producer to be raised to slaughter weight by that producer;

(f) “hog” means a hog as defined in the Plan;

(f.1) “investor producer” means a person who owns hogs that are produced for that person by another producer or producers;

Regulation;

(g) “licence” means a licence issued or renewed by the Corporation under this

(h) “marketing” means marketing as defined in the Plan;

(i) “Plan” means the Alberta Pork Producers’ Plan Regulation (AR 219/2001);

(i.1) “premises” means a premises where one or more hogs are produced or marketed, and includes all buildings and land occupied or used in the production or marketing of hogs;

(i.2) “premises identification account” means a unique identifying account assigned by the Minister pursuant to the Traceability Premises Identification Regulation (AR 200/2008) under the Animal Health Act;

(i.3) “premises identification number” means a number assigned by the Minister pursuant to the Traceability Premises Identification Regulation (AR 200/2008) under the Animal Health Act;

(j) “processor” means a person who slaughters hogs;

(k) “producer” means a producer as defined in the Plan;

(k.1) “producer registration number” means the registration number issued by the Corporation to a registered producer;

(l) “weaner” means a hog that weighs less than 20 kg.

AR 285/96 s1;201/2004;35/2012

Licence

2(1) No person shall

- (a) assemble hogs except under the authority of a licence authorizing the assembly of hogs;
- (b) transport hogs except under the authority of a licence authorizing the transport of hogs;
- (c) buy hogs except under the authority of a licence authorizing the buying of hogs.

(2) A producer is not required to be licensed under subsection (1)(a) or (b) unless that producer is in the business of assembling or transporting or assembling and transporting hogs on behalf of another producer.

(3) A producer that buys hogs from another producer must hold a buyer's licence unless the hogs bought are

- (a) weaners or feeders that are bought by the producer for use in the production of hogs on that producer's farm, or
- (b) sows and boars that are used for breeding on that producer's farm.

Licence application

3(1) A person may apply to the Corporation for one or more of the following licences:

- (a) a licence to operate as an assembler of hogs;
- (b) a licence to operate as a transporter of hogs;

(c) a licence to operate as a buyer of hogs.

(2) An applicant for a licence must provide to the Corporation the information required under Schedule 1.

(3) In addition to the information required under Schedule 1, the Corporation may require an applicant for a licence to provide any other information in relation to the activity for which the licence is being applied for that the Corporation considers necessary

(a) to determine whether a licence should be granted, or

(b) for the purposes of the traceability system established pursuant to the Animal Health Act.

AR 285/96 s3;35/2012

Multiple licences

4 Where a person carries out more than one activity for which different licences are required under this Regulation, that person must hold the different licences required for each of those activities.

Licence refusal

5 The Corporation may refuse to grant a licence to an applicant if

(a) the Corporation is not satisfied that the applicant will comply with

(i) the Act, the Plan or this or any other regulation applying to the applicant,

(i.1) any provision of a regulation respecting traceability under the Animal Health Act,

(i.2) section 37(1) of the Animal Health Act or section 136 or 140 of the Traffic Safety Act in respect of the production for inspection of records relating to the transportation of hogs,

(ii) any orders or directions of the Council or the Corporation, or

(iii) any other statute, regulation or order applicable to the business in which the applicant is engaged,

or

(b) the applicant does not provide the information required under section 3.

AR 285/96 s5;35/2012

Term of licence

6 A licence expires on December 31 next following the date on which the licence is issued or renewed.

Licence not transferable

7 A licence is not transferable.

Ability of licensee not warranted by Corporation

8(1) Even though the Corporation issues a licence to a person or renews the licence of a person, the Corporation does not warrant or endorse in any manner the ability of that person to carry out the activity for which the person is licensed.

(2) A person who is licensed shall not represent to any person that the Corporation warrants or endorses in any manner the ability of that person to carry out the activity for which the person is licensed.

Licence suspended, revoked, not renewed

9 The Corporation may suspend or revoke or refuse to renew any licence if in the opinion of the Corporation the holder of the licence or the applicant for renewal has failed to observe, perform or carry out

(a) the provisions of the Act, the Plan or any regulation or order or direction of the Council or the Corporation,

(b) the requirements of section 37 of the Animal Health Act or section 136 or 140 of the Traffic Safety Act in respect of the production for inspection of records relating to the transportation of hogs, or

(c) any provision of a regulation under the Animal Health Act dealing with traceability.

AR 285/96 s9;35/2012

Notification of licence refusal

10 Where

(a) a person's application for a licence is refused,

(b) a person's licence is suspended or revoked, or

- (c) the Corporation refuses to renew a person's licence,

the Corporation shall forthwith notify the person of that fact.

Show cause respecting refusal of licence, etc.

11 Where

- (a) a person's application for a licence is refused,
- (b) a person's licence is suspended or revoked, or
- (c) the Corporation fails to renew a person's licence,

that person is entitled to show cause to the Corporation as to why

- (d) the licence should not be refused, suspended or revoked, or
- (e) the renewal of it should not be refused.

Hog information

12(1) A licence holder must maintain a complete and accurate record of all matters relating to the activity authorized by the licence, including any of the following records and documents that are pertinent to the activity authorized by the licence:

- (a) hog sales records showing

hog,

- (i) the number of hogs sold and the approved swine identification of each

- (ii) the date of the sale,

- (iii) the name and licence number of the purchaser,

- (iv) the premises identification number for the premises at which the hogs were produced, and

- (v) an approved manifest or other approved hog transport document containing all of the information required by regulations respecting traceability under the Animal Health Act;

- (b) hog purchase records showing

- (i) the number of hogs purchased and the approved swine identification of each hog,

- (ii) the name of the person from whom the hogs were purchased,

- (iii) the name and producer registration number of the producer of the hogs,

- (iv) the date of the purchase, and

- (v) the premises identification number for the premises at which the hogs were produced;

- (c) transportation records, including manifests and bills of lading under the Traffic Safety Act or other hog transport documents required by regulations respecting traceability under the Animal Health Act.

(2) A processor must maintain a complete and accurate record with respect to the following:

(a) the date on which hogs were slaughtered and the number of hogs slaughtered on that date;

(b) the name and producer registration number of the seller of each hog slaughtered;

(c) the premises identification number for the farm at which each of the hogs were produced that were slaughtered;

(d) the approved swine identification of each hog slaughtered on that date;

(e) copies of all documents respecting slaughtered hogs required to be kept by a processor by regulations respecting traceability under the Animal Health Act.

(2.1) A processor who custom kills hogs shall, in addition to complying with section 13,

(a) complete a declaration in the form in Schedule 5 in respect of the custom kill, and

(b) forward the declaration to the Corporation in time to reach the Corporation by the 15th day of the month following the month in which the custom kill occurred.

(3) A person who is required to maintain records and documents, as the case may be, under this section must

(a) maintain those records and documents for not less than 3 years from the day that the record was made or the document was created, and

(b) make those records and documents available to the Corporation when requested to do so by the Corporation.

AR 285/96 s12;201/2004;35/2012

12.1 Repealed AR 35/2012 s7.

Information to be submitted

13(1) A person who at anytime during a month sells, transports, assembles, buys or processes hogs must submit the information required under Schedule 2 to the Corporation by the 15th of the next month.

(2) A person submitting information to the Corporation under subsection (1) may submit the information to the Corporation

(a) by ordinary mail, or

(b) by any other means that is approved of by the Corporation.

AR 285/96 s13;271/2002

Producer registration numbers

14(1) A person who

(a) is producing hogs or who intends to produce hogs, or

(b) is producing and marketing hogs or intends to produce and market hogs

must apply to the Corporation for a producer registration number if the person does not hold an existing producer registration number.

(2) An application under subsection (1) must include the person's premises identification number for each premises at which the person produces or produces and markets or intends to produce or produce and market hogs.

(3) An investor producer who markets or intends to market hogs produced by another producer or producers must apply to the Corporation for a producer registration number if the investor producer does not hold an existing producer registration number.

(4) An application under subsection (3) must include the investor producer's premises identification number for each premises at which the investor producer produces or produces and markets or intends to produce or produce and market hogs.

(5) An application under this section must contain the information specified by the Corporation that the Corporation considers necessary for the purposes of the Plan, this Regulation and any other regulation made under the Act in respect of the Corporation, and any information required by regulations respecting traceability under the Animal Health Act.

(6) On receipt of an application that meets the requirements of this section, the Corporation shall allocate the appropriate producer registration number.

(7) No fee is payable in respect of an application under this section.

(8) A person who is allocated a producer registration number under this section must forthwith notify the Corporation of any changes to the producer registration information provided in the application pursuant to which the producer registration number was allocated.

AR 285/96 s14;201/2004;35/2012

Records

14.1 The Corporation shall maintain a register containing information provided to the Corporation under section 14.

AR 201/2004 s5

Prohibition re producer registration and
premises identification numbers

15(1) No person shall produce or market hogs unless the person has been allocated

(a) a premises identification account and premises identification number issued by the Minister, and

(b) a producer registration number and approved swine identification issued by the Corporation.

(2) A producer who markets hogs shall, at the time of marketing, provide to the person assembling, transporting, buying, processing or receiving the hogs

(a) the producer's registration number, the premises identification account and premises identification number of the premises at which the hogs were produced, and the approved swine identification of the hogs, and

(b) if the producer is an investor producer, the investor producer's registration number and the premises identification account and premises identification number of the premises at which the hogs were produced, and the approved swine identification of the hogs.

(3) A person shall not assemble, transport, buy, process or receive hogs produced in Alberta unless

(a) the hogs were produced and marketed by a person who has been allocated the appropriate producer registration number, premises identification account and premises identification number and approved swine identification of the hogs, and

(b) the appropriate producer registration number, premises identification account and premises identification number and approved swine identification of the hogs referred to in subsection (2) are recorded by the person who assembles, transports, buys, processes or receives the hogs.

AR 285/96 s15;201/2004;35/2012

Confidentiality

16(1) The information obtained by the Corporation under sections 3(2) and (3) and 12 shall be held in confidence and used only for the purposes of ensuring compliance with

(a) this and other regulations made under the Act in respect of the Plan,

(b) the Animal Health Act and regulations made under that Act in respect of matters relating to traceability,

(c) the Traffic Safety Act and regulations made under that Act in respect of the transportation of hogs, and

(d) the Alberta Hog Order made under the Agricultural Products Marketing Act (Canada).

AR 285/96 s16;35/2012

General service charge

17(1) A service charge of \$1.00 shall be paid to the Corporation by a producer for each hog sold by the producer.

(2) A service charge is not payable on sales of

(a) feeders or weaners that are used in the production of hogs on a producer's farm, or

(b) sows and boars that are used for breeding on a producer's farm,

until those hogs are slaughtered or sold for slaughter.

(3) If a producer slaughters a hog or causes a hog to be slaughtered without selling the hog to another person, that producer is deemed to have sold the hog on the date of slaughter, and the service charge referred to in subsection (1) is payable by the producer in respect of that hog.

(4) Repealed AR 201/2004 s7.

AR 285/96 s17;201/2004

Deduction of service charge

18(1) A person who buys a hog from a producer shall

(a) deduct the service charge from the purchase price payable to that producer,

(b) account for the service charge by providing the information required under Schedule 4, and

(c) forward the service charge and the information required under Schedule 4 to the Corporation in time for that service charge and the information to reach the Corporation by the 15th of the month following the month in which the service charge was deducted.

(2) If a buyer who buys hogs from a producer fails to deduct the service charge from the sale proceeds as required under subsection (1), the buyer and the producer are jointly and severally liable to the Corporation for the payment of the service charge.

(3) Subject to subsection (4.1), if a processor slaughters a hog for which no service charge has been deducted as required under this Regulation, the processor must deduct the service charge from any proceeds payable in respect of the hog and forward the service charge to the Corporation in accordance with subsection (1)(c).

(4) If the processor fails to forward the service charge to the Corporation in accordance with subsection (3), the processor and the producer are jointly and severally liable to the Corporation for the payment of the service charge.

(4.1) If a processor custom kills hogs and collects from the producer the service charge that the producer is liable to pay under section 17(3), the processor shall forward the service charge to the Corporation together with a declaration in the form in Schedule 5.

(4.2) If a producer for whom hogs are custom killed does not submit the service charge to the Corporation as required by section 17(3) and the processor who custom killed the hogs does not submit a declaration in the form in Schedule 5 to the Corporation as required by this Regulation, the processor is liable to the Corporation for the payment of the service charge.

(5) Where a person holds funds that were deducted as a service charge and that are held in trust by that person for the Corporation by virtue of section 31 of the Act, that person must deposit and hold those funds in a separate trust account maintained by that person for the purpose of holding funds deducted as service charges.

AR 285/96 s18;271/2002;201/2004

Service charges refundable

18.1(1) A producer or an investor producer may request a refund of service charges by submitting the following information on the form established by the Corporation:

(a) the producer's or investor producer's name;

(b) the producer's or investor producer's mailing address and telephone number;

(c) the producer's or investor producer's registration number;

(d) proof of the quantity of hogs sold;

(e) the name and address of any processor who collected the service charge on behalf of the producer or investor producer;

(f) the amount of the refund requested.

(2) Requests for refunds of service charges must be received by the Corporation at its head office

(a) prior to May 31, 2011, in respect of service charges collected during the period commencing on September 1, 2010 and ending on April 30, 2011,

(b) prior to May 31, 2012, in respect of service charges collected during the period commencing on May 1, 2011 and ending on April 30, 2012, and

(c) after April 30, 2012, prior to May 31 in any year in respect of service charges collected during the period commencing on May 1 in the previous year and ending on April 30 in that year.

(3) The Corporation is not required to consider any request for a refund that is not received by the Corporation within the relevant time period specified in subsection (2) and the producer or investor producer is not entitled to the refund in respect of which the request was made.

(4) Notwithstanding subsection (3), the Corporation may, if it is satisfied that extenuating circumstances exist to warrant its doing so, consider a request for a refund that is received after the expiry of the relevant time period specified in subsection (2).

(5) On receipt of a request that meets the requirements of this section, the Corporation shall refund the service charges to the producer or investor producer

(a) within 120 days after the expiry of the relevant time period specified in subsection (2), or

(b) where the request was received after the expiry of the relevant time period specified in subsection (2) but has been considered by the Corporation under subsection (4), within 120 days after the receipt of the request.

(6) This section applies to service charges during the 2010-11 fiscal year and subsequent fiscal years.

AR 156/2011 s3

Debt to the Corporation

19 A service charge that is payable under this Regulation is a debt due to the Corporation and may be recovered by the Corporation by a civil action for debt.

Use of service charge

20 The Corporation may use the service charges that are payable under this Regulation for the purpose of paying the Corporation's expenses and administering the Plan and the regulations made by the Corporation.

AR 285/96 s20;244/2001

21 Repealed AR 35/2012 s11.

Expiry

22 For the purposes 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 September 30, 2017.

AR 285/96 s22;244/2001;24/2007;35/2012

23 Repealed AR 35/2012 s13.

Schedule 1

Licence Application

1. Type of licence for which application is made:

Assembler

Transporter

Buyer, including processor

2. Name of Applicant:

3. Mailing Address:

4. Registered Office:

(for incorporated applicants)

5. Phone Number:

6. Facsimile Number:

7. Location where the licenced activity will take place, including a full description of any location or premises where hogs will be raised or kept for any period of time:

8. Location where records relating to the activity under the licence will be kept:

(Note: For 7 and 8, identify each location by land description and municipal address. If there is more than one location, list each.)

9. If trucks are to be used in conducting the activity, list the make, year, vehicle identification number and licence number for each truck that will be used:

10. Do you hold a licence issued under the Livestock Identification and Commerce Act?:

Yes Describe the type of licence held under the Livestock Identification and Commerce Act:

No

(Check one)

11. Signature of the Applicant (or authorized representative):

12. Date:

Schedule 2

A person who sells, transports, assembles, buys or slaughters a hog must provide the information applicable to that activity required by this Schedule regarding the hogs sold, transported, assembled, bought or slaughtered, as the case may be.

A. Information Required to be Provided by a Person who Sells Hogs

1. Seller's Name:

2. Seller's Producer Registration Number and Premises Identification Number of premises where the hogs were produced:

3. Is Seller the Producer of the hogs? Yes ___ No ___

4. If No,

(a) name, address and Producer Registration Number of Producer:

(b) Premises Identification Number of Producer:

5. Date of sale:

6. Number of hogs sold:

7. Approved swine identification of hogs sold:

8. Purchaser's Name and Producer Registration Number:

9. Signature of Seller or Seller's authorized agent and certification that the information provided is true and correct:

B. Information Required to be Provided by a Person who Transports Hogs

1. Transporter's Name:

2. Transporter's Licence Number:

3. Truck Licence Number:

4. Date hogs were transported:

5. Location and Premises Identification Number where hogs were picked up:

6. Location and Premises Identification Number where hogs were delivered:

7. Name of Producer of the hogs:

8. Producer Registration Number of Producer of the hogs:

9. Approved swine identification of hogs:

10. Number of hogs picked up:

11. Signature of Transporter or Transporter's authorized agent and certification that the information provided is true

and correct:

C. Information Required to be Provided by an Assembler

1. Assembler's Name:
2. Assembler's Licence Number:
3. Date hogs were assembled:
4. Approved swine identification of hogs:
5. Name of Producer of assembled hogs:
6. Producer Registration Number of Producer:
7. Number of hogs assembled and Premises Identification Number of each premises from which the hogs were obtained:
8. Date the hogs left the Assembler's possession:
9. The person to whom the hogs were delivered and the Premises Identification Number of the location to which the hogs
were delivered:
10. Signature of Assembler or Assembler's authorized agent and certification that the information provided is true

and correct:

D. Information to be Provided by a Person who Buys Hogs

1. Buyer's Name:

2. Buyer's Licence Number:

3. Date hogs were bought:

4. Name of Producer of hogs:

5. Producer Registration Number and Premises Identification Number of Producer of hogs:

6. Approved swine identification of hogs:

7. Is Buyer a Processor? Yes _____ No _____

8. If No, name and address of person to whom the Buyer delivered the hogs:

9. Signature of Buyer or Buyer's authorized agent and certification that the information provided is true
and correct:

E. Information to be Provided by a Person who Slaughters Hogs

1. Processor's Name:

2. Processor's Address:

3. Name, Premises Identification Number and Producer Registration Number of Producer that produced the slaughtered hogs:

4. Approved swine identification of the slaughtered hogs:

5. Date the hogs were delivered to the Processor:

6. Date the hogs were slaughtered:

7. Signature of Processor or Processor's authorized agent
and certification that the information provided is true
and correct:

AR 285/96 Sched.2;201/2004;35/2012

Schedule 3 Repealed AR 201/2004 s10.

Schedule 4

A Buyer under Section 18(1) or a Processor under Section 18(3) must provide the following information for each hog bought or slaughtered, as the case may be:

1. Buyer's Name:

2. Producer's Name and Producer Registration Number:

3. Premises Identification Number of producer:

4. Date of purchase:

5. Number of hogs purchased and approved swine identification of hogs:

6. Amount of service charge deducted:

7. Date service charge deducted:

8. Name and address of financial institution that held the service charge before it was remitted to the APPDC:

AR 285/96 Sched.4;35/2012

Schedule 5

Declaration Regarding Custom Kill

1. On (insert date) , (insert number) hogs were custom killed for (insert producer's name and address) .

2. The Premises Identification Number of the premises where the hogs were produced is (insert Premises Identification Number) .

3. Service charges in the amount of are included with this return:

(a) yes, as authorized by the producer;

(b) no.

(processor name)

(date of processing)

AR 201/2004 s11;35/