

(Consolidated up to 88/2005)

ALBERTA REGULATION 34/99

Marketing of Agricultural Products Act

ALBERTA SOFT WHEAT PRODUCERS MARKETING REGULATION

Table of Contents

1	Definitions
2	Service charges
3	Variation of service charge
4	Collection of service charge
5	Refund of service charges
6	Dealer's licence required
7	Application for dealer's licence
8	Granting of dealer's licence
9	Authority of dealer's licence
10	Disposal of dealer's licence
11	Term of dealer's licence
12	Refusal to grant a dealer's licence
13	Suspension or cancellation of dealer's licence
14	Hearing
15	Report to Commission
16	Information
17	Inspection of records
18	Use of funds
19	Interest
20	Legal action
21	Remuneration of directors
22	Repeal
23	Expiry

Definitions

1(1) In this Regulation,

- (a) “Act” means the Marketing of Agricultural Products Act;
- (b) “Commission” means the Alberta Soft Wheat Producers Commission;
- (c) “dealer’s licence” means a licence granted to a dealer under section 8;
- (d) “Plan” means the Alberta Soft Wheat Producers Marketing Plan.

(2) Words that are 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 \$1.50 per metric tonne or portion of a metric tonne of regulated product sold.

AR 34/99 s2;144/2002;88/2005

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) All dealers who

- (a) purchase regulated product from a producer, or
- (b) acquire regulated product from a producer for sale on the producer’s behalf

shall deduct the amount of the service charge from any proceeds payable to or on behalf of the producer.

(2) Any person who receives proceeds on behalf of the producer with respect to the sale by the producer of regulated product shall, if the service charge has not been deducted by a dealer, deduct the amount of the service charge from the proceeds payable to or on behalf of the producer.

(3) Any person 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.

(4) Where the Commission does not receive payment of the service charge as required under subsection (3), it is the obligation of the producer to ensure that payment of the appropriate service charge is made to the Commission.

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

- (a) the amount of regulated product obtained from the producer,
- (b) the amount of service charge being paid on behalf of the producer,
- (c) the name and address of the producer, and
- (d) the Canadian Wheat Board identification number.

Refund of service charges

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

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

(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 and telephone number;
- (iii) the producer's identification number;
- (iv) the quantity of regulated product sold and the amount of the service charge deducted;
- (v) the name and address of any person who collected the service charge on behalf of the producer;
- (vi) any specifics of the refund request.

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

(a) prior to the end of August, in the case of 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, in the case of 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

- (a) the entire service charge, or
- (b) a part of the service charge if the producer requests that only part of the service charge be refunded

to the producer within 90 days from the end of the period to which the request relates, if the request complies with this Regulation.

Dealer's licence required

6(1) 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.

(2) No person, other than a producer, shall engage in the marketing of the regulated product unless that person is licensed as a dealer under this Regulation.

Application for dealer's licence

7(1) Every person, other than a producer, who wishes to market the regulated product shall apply to the Commission for a dealer's licence.

(2) An applicant for a dealer's licence shall provide to the Commission in a form provided by or acceptable to the Commission

- (a) the name, telephone number and mailing address of the applicant,
- (b) the address of the applicant, if it is different than the mailing address, and
- (c) such other information as the Commission may require.

Granting of dealer's licence

8 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.

Authority of dealer's licence

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

Disposal of dealer's licence

10 A dealer's licence becomes void when it is sold, transferred, assigned or otherwise disposed of.

Term of dealer's licence

11 The term for a dealer's licence commences on August 1 and ends on July 31 of the following year.

Refusal to grant a dealer's licence

12 The Commission may refuse to grant a dealer's licence

- (a) if it is satisfied that the applicant
 - (i) will not comply with
 - (A) the Act, the Plan or any regulation under the Act, or
 - (B) any orders or directions of the Council or the Commission,

that apply or will apply to the applicant,

(ii) will not comply with another statute, regulation or order that applies or will apply to the business in which the applicant is engaged, or

(iii) does not hold a licence issued by the Canadian Grain Commission,

or

(b) for any other lawful reason the Commission considers proper.

Suspension or cancellation of dealer's licence

13(1) 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,

the Commission may suspend or cancel that dealer's licence.

(2) Where

(a) a person is issued a licence by the Canadian Grain Commission and a dealer's licence by the Alberta Soft Wheat Producers Commission, and

(b) the person's licence that is issued by the Canadian Grain Commission is suspended or cancelled,

the Alberta Soft Wheat Producers Commission may suspend or cancel that person's dealer's licence.

Hearing

14(1) The Commission shall in writing notify the person who was refused a licence or whose licence was suspended or cancelled, as the case may be, of its decision.

(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 shall 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) shall be given an opportunity, as the case may be,

(a) to show cause why a dealer's licence should be granted, or

(b) to show cause why his dealer's licence should not be suspended or cancelled.

(5) Following a hearing under this section, the Commission shall in writing notify the person in respect of whom the hearing was held of its decision.

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

Report to Commission

15 A dealer shall

(a) record for each month the total volume of regulated product purchased or acquired by the dealer from producers, and

(b) at the conclusion of the month report to the Commission the amounts so recorded for that month.

Information

16(1) 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 by a producer and the details of the marketing;

(c) the amount of regulated product marketed by a person and the manner in which the regulated product is marketed;

(d) any other general information relating to production and marketing of the regulated product that the Commission requires to carry out its purposes under the Act and the Plan.

(2) A person who receives a request under subsection (1) shall comply with it.

Inspection of records

17 Where the Commission is of the opinion that circumstances warrant it, the Commission may in writing require 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.

Use of funds

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

Interest

19 Interest shall be paid to the Commission for any late payment of service charges or licence fees at the rate of 1% per month calculated on the balance due.

Legal action

20 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.

Remuneration of directors

21 Subject to section 20 of the Act, the amount of remuneration and expenses paid to directors of the Commission shall be set from time to time by the Commission and be ratified at the annual Commission meeting or a special Commission meeting.

Repeal

22 The Alberta Soft Wheat Producers Marketing Regulation (AR 259/90) is repealed.

Expiry

23 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 May 31, 2010.

AR 34/99 s23;349/2003