

Farm Products Marketing Act

R.R.O. 1990, REGULATION 419

Amended to O. Reg. 112/05

HOGS — MARKETING

Notice of Currency:* This document is up to date.

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This is the English version of a bilingual regulation.

1. In this Regulation,

“hogs” means domestic swine produced in Ontario; (“porc”)

“local board” means The Ontario Pork Producers’ Marketing Board; (“commission locale”)

“plan” means the Ontario Pork Producers’ Marketing Plan; (“plan”)

“processing” means the slaughtering of hogs; (“transformation”)

“processor” means a person who slaughters hogs or has hogs slaughtered and, for the purposes of sections 14 and 16, means a person who slaughters sows and boars; (“transformateur”)

“producer” means a producer engaged in the production of hogs; (“producteur”)

“shipper of hogs” means a person who assembles hogs or transports hogs in any manner, but does not include,

(a) a producer who transports in a vehicle owned by the producer only the hogs produced by the producer,

(b) a person who is employed by and driving a vehicle owned by the holder of a licence as a shipper of hogs,

(c) a railway company, or

(d) a processor who bought the hogs under the plan and the regulations. (“expéditeur de porcs”)
R.R.O. 1990, Reg. 419, s. 1.

2. This Regulation provides for the control and regulation in any or all respects of the producing and marketing within Ontario of hogs, including the prohibition of such producing and marketing in whole or in part. R.R.O. 1990, Reg. 419, s. 2.

3. The Commission exempts from this Regulation,

(a) hogs marketed for any purpose except slaughter; and

(b) hogs produced in the County of Haliburton and the territorial districts other than Cochrane and Timiskaming. R.R.O. 1990, Reg. 419, s. 3.

Powers of Local Board

4. The Commission delegates to the local board the power,

(a) to require persons engaged in the producing or marketing of hogs to register their names, addresses and occupations with the local board;

(b) to require persons engaged in the producing or marketing of hogs to furnish such information in respect of hogs including the completing and filing of returns as the local board determines;

(c) to appoint persons to inspect the books, records, documents, lands and premises and any hogs of persons engaged in marketing hogs;

(d) to stimulate, increase and improve the marketing of hogs;

(e) to co-operate with a marketing board, local board, marketing commission or marketing agency of Canada or any province in Canada for the purpose of marketing hogs;

(f) to do such acts and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the Act, the regulations and the plan. R.R.O. 1990, Reg. 419, s. 4.

5. The Commission delegates to the local board its powers to make regulations with respect to hogs,

(a) providing for the licensing of any or all persons before commencing or continuing to engage in the assembling, processing, shipping or transporting of hogs;

(b) prohibiting persons from engaging in the assembling, processing, shipping or transporting of hogs except under the authority of a licence;

(c) providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to engage in properly the business for which the application was made, or for any other reason that the local board considers proper;

(d) providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the Act, the regulations, the plan or any order or direction of the local board;

(e) providing for the fixing of licence fees payable by any or all persons engaged in the assembling, processing, shipping or transporting of hogs;

(f) prescribing the forms of licences;

(g) requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of hogs and providing for the administration and disposition of any money or securities so furnished;

(h) providing for the control and regulation of the marketing of hogs, including the times and places at which hogs may be marketed;

(i) requiring any person who produces and processes hogs to furnish to the local board statements of the amounts of hogs that the person produced in any year and used for processing;

(j) requiring any person who produces hogs to offer to sell and to sell hogs through the local board;

(k) prohibiting any person from processing, packing or packaging any hogs that have not been sold by or through the local board;

(l) subject to section 3, providing for the exemption from any or all of the regulations, orders or directions under the plan of any class, variety or grade of hogs, or any person or class of persons engaged in the producing or marketing of hogs or any class, variety or grade of hogs; and

(m) providing for the making of agreements relating to the marketing of hogs by or through the local board, and prescribing the forms and the terms and conditions of such agreements. R.R.O. 1990, Reg. 419, s. 5.

6. (1) The Commission authorizes the local board to use any class of licence fees, service charges and other money payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing the Act and the regulations and carrying out the purposes of the plan. R.R.O. 1990, Reg. 419, s. 6 (1).

(2) The Commission authorizes the local board to establish a fund in connection with the plan for the payment of any money that may be required for the purposes mentioned in subsection (1). R.R.O. 1990, Reg. 419, s. 6 (2).

7. The Commission authorizes the local board to conduct a pool or pools for the distribution of all money received from the sale of hogs and, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the money received from the sale in such manner that every producer receives a share of the remainder of the money received from the sale in relation to the amount, class, variety, grade or size of hogs delivered by the producer, and authorizes the local board to make an initial payment on delivery of hogs and subsequent payments until all the remainder of the money received from the sale is distributed to the producers. R.R.O. 1990, Reg. 419, s. 7.

Appointment of Agents

8. The Commission authorizes the local board to appoint agents, to prescribe their duties and terms and conditions of employment and to provide for their remuneration. R.R.O. 1990, Reg. 419, s. 8.

Marketing by Local Board

9. (1) All hogs shall be marketed by or through the local board. R.R.O. 1990, Reg. 419, s. 9 (1).

(2) No person shall market hogs except by or through the local board. R.R.O. 1990, Reg. 419, s. 9 (2).

Powers of Local Board

10. The Commission vests in the local board the following powers:

1. To direct and control by order or direction either as principal or agent, the marketing of hogs, including the times and places at which hogs may be marketed.

2. To determine the quality of each class, variety, grade and size of hogs that shall be marketed by each producer.

3. To prohibit the marketing of any class, variety, grade or size of hogs.

4. To determine from time to time the price or prices that shall be paid to producers or to the local board, as the case may be, for hogs or for any grade of hogs and to determine different prices for different parts of Ontario.

5. To fix and impose service charges from time to time for the marketing of hogs.
6. To require the price or prices payable or owing to the producer for hogs to be paid to the local board.
7. To collect from any person by action in a court of competent jurisdiction the price or prices or any part thereof of hogs.
8. To pay to the producers the price or prices for hogs less service charges imposed under paragraph 5 and to fix the times at which or within which such payments shall be made. R.R.O. 1990, Reg. 419, s. 10.

Method of Sale

11. (1) The local board may sell hogs by auction or by contract under the powers vested in it under section 10. O. Reg. 88/92, s. 1.

(2) In a sale by auction,

(a) where the local board does not establish regular times and one or more regular places for auctions, it shall give notice of the time and place of an auction in such a way that every licensed processor may have a reasonable opportunity to bid as each lot of hogs is offered;

(b) the local board shall offer lots of hogs without discrimination and in such a way that the processors may bid competitively on the hogs;

(c) the buyer of the hogs shall be the processor who first bid the highest price; and

(d) the local board shall make and keep for at least one year a record showing,

(i) the number of hogs in the lot,

(ii) the location of the hogs at the time of the sale,

(iii) the name and address of the buyer, and

(iv) the price at which the hogs were sold. O. Reg. 88/92, s. 1.

(3) In a sale by contract, the local board shall make and keep for at least one year a record showing,

(a) the number of hogs sold per delivery;

(b) the place from which the hogs were delivered;

(c) the place to which the hogs were delivered; and

(d) the price at which the hogs were sold. O. Reg. 88/92, s. 1.

Statements to Producers

12. Each payment made under paragraph 8 of section 10 shall be accompanied by a statement showing the grades and quantity of each grade of hogs sold, the price or prices paid and the particulars of the service charges imposed by the local board. R.R.O. 1990, Reg. 419, s. 12.

Advisory Committee

13. (1) There shall be an advisory committee to be known as “The Hog Industry Advisory Committee” composed of a chair and six members. R.R.O. 1990, Reg. 419, s. 13 (1).

(2) After the 1st day of April and before the 30th day of April in each year,

(a) the Commission shall appoint the chair;

(b) the local board shall appoint the members;

(c) the Ontario members of the Meat Packers Council of Canada shall appoint two members;
and

(d) the meat packers in Ontario who are not members of the Meat Packers Council of Canada shall appoint one member,

of the Advisory Committee. R.R.O. 1990, Reg. 419, s. 13 (2).

(3) Subject to subsections (4) and (5), the members of the Advisory Committee appointed under subsection (2) are and remain members thereof until the 30th day of April in the year next following the year in which they were appointed. R.R.O. 1990, Reg. 419, s. 13 (3).

(4) Where a member of the Advisory Committee dies or resigns or is unavailable to act before the expiration of his or her term, the person or persons who appointed the member shall appoint a person for the unexpired term of the member who died or resigned or was unavailable to act. R.R.O. 1990, Reg. 419, s. 13 (4).

(5) Where the Ontario members of the Meat Packers Council of Canada, the meat packers in Ontario who are not members of the Meat Packers Council of Canada, or the local board, as the case may be, fail to appoint a member or members to the Advisory Committee in accordance with subsection (2) or (4), the Commission may appoint such members as are necessary to complete the Advisory Committee. R.R.O. 1990, Reg. 419, s. 13 (5).

(6) The Advisory Committee is empowered to advise and make recommendations to the local board, the Meat Packers Council of Canada, or to the meat packers in Ontario who are not members of the Meat Packers Council of Canada in respect of,

(a) the promotion of harmonious relationships between persons engaged in the production and marketing of hogs;

(b) the promotion of greater efficiency in the production and marketing of hogs;

(c) the prevention and correction of irregularities and inequities in the marketing of hogs;

(d) the improvement of the quality and variety of hogs;

(e) the improvement of the circulation of market information respecting hogs; and

(f) without limiting the generality of any of the foregoing, any matter with respect to which the Commission or the local board may be empowered to make regulations under the Act. R.R.O. 1990, Reg. 419, s. 13 (6).

Sows and Boars

14. (1) There shall be a negotiating agency to be known as the “Negotiating Committee for Sows and Boars”. R.R.O. 1990, Reg. 419, s. 14 (1).

(2) The negotiating agency shall be composed of either two members or four members. R.R.O. 1990, Reg. 419, s. 14 (2).

(3) Where the negotiating agency is composed of two members, the processors and the local board shall each appoint one member annually. R.R.O. 1990, Reg. 419, s. 14 (3).

(4) Where the negotiating agency is composed of four members, the processors and the local board shall each appoint two members annually. R.R.O. 1990, Reg. 419, s. 14 (4).

(5) The local board and the processors shall appoint their respective members to the negotiating agency and shall notify the Commission in writing of their names and addresses not later than the 31st day of December in each year. R.R.O. 1990, Reg. 419, s. 14 (5).

(6) Subject to subsections (7) and (8), the members of the negotiating agency shall remain members until the 31st day of December of the year following the year in which they were appointed. R.R.O. 1990, Reg. 419, s. 14 (6).

(7) Where a member of the negotiating agency dies, resigns or is unable or unwilling to act as a member, the local board or the processors who appointed the member shall appoint a person to replace the member for the unexpired part of the term. R.R.O. 1990, Reg. 419, s. 14 (7).

(8) Where either the local board or the processors fail to make an appointment under subsection (7) within seven days after a vacancy occurs, the Commission shall appoint the members necessary to complete the negotiating agency. R.R.O. 1990, Reg. 419, s. 14 (8).

(9) Where either the local board or the processors fail to make an appointment under subsection (3) or (4), the Commission shall appoint the members necessary to complete the negotiating agency. R.R.O. 1990, Reg. 419, s. 14 (9).

15. The negotiating agency is empowered to adopt or settle by agreement,

(a) minimum prices for sows and boars or for any class, variety, grade or size of sows and boars that are sold by the local board under paragraph 1 of section 10;

(b) terms, conditions and forms of agreements relating to the producing or marketing of the sows and boars; and

(c) any charges, costs or expenses relating to the production or marketing of the sows and boars. R.R.O. 1990, Reg. 419, s. 15.

16. (1) The members of the negotiating agency appointed by the processors or by the local board may convene a meeting of the negotiating agency by giving written notice to the other members of the negotiating agency at least five days before the date of the meeting. R.R.O. 1990, Reg. 419, s. 16 (1).

(2) The notice shall state the date, time and place of the meeting. R.R.O. 1990, Reg. 419, s. 16 (2).

17. (1) Where a meeting of the negotiating agency is not held in accordance with the notice given under section 16, or where a meeting is held and the negotiating agency does not arrive at an agreement respecting all matters that it is empowered to adopt or settle by agreement, the matters in dispute shall be referred by the Commission to an arbitration board. R.R.O. 1990, Reg. 419, s. 17 (1).

(2) Where the negotiating agency does not arrive at an agreement respecting all matters that it is empowered to adopt or settle by agreement, it shall submit in writing to the Commission a statement of

the matters in dispute and a statement of the final positions of the members of the negotiating agency. R.R.O. 1990, Reg. 419, s. 17 (2).

18. (1) An arbitration board shall be composed of one member. R.R.O. 1990, Reg. 419, s. 18 (1).

(2) Subject to subsection (3), the member of the arbitration board shall be appointed by the members of the negotiating agency. R.R.O. 1990, Reg. 419, s. 18 (2).

(3) Where the members of the negotiating agency cannot agree on a person to be appointed as the member of the arbitration board by the 7th day of April in any year, the Commission shall appoint the member of the arbitration board. R.R.O. 1990, Reg. 419, s. 18 (3).

(4) Where the member of the arbitration board dies, resigns or is unable or unwilling to act as a member, the Commission shall appoint a person to replace the member. R.R.O. 1990, Reg. 419, s. 18 (4).

(5) The Commission shall submit to the arbitration board any statement received from the negotiating agency under subsection 17 (2). R.R.O. 1990, Reg. 419, s. 18 (5).

(6) The arbitration board shall make an award respecting matters not adopted or settled by agreement by the negotiating agency. R.R.O. 1990, Reg. 419, s. 18 (6).

Seizure and Detention

19. The Commission vests in the local board the power to make regulations,

(a) providing for the seizure and detention of hogs or any class, variety, grade or size of hogs by any person appointed under clause 3 (1) (g) of the Act if that person believes on reasonable grounds that an offence against the Act or the regulations has been committed in respect of the hogs;

(b) providing for the release from detention of the hogs or any class, variety, grade or size of hogs if the local board is satisfied that the owner of the hogs that have been seized and detained complies with the Act and the regulations respecting the hogs;

(c) providing for the disposal of hogs or any class, variety, grade or size of hogs that have been seized and detained and providing for the administration and disposition of any money derived from the disposal; and

(d) prescribing the manner in which hogs may be seized, detained, released or disposed of. O. Reg. 113/97, s. 1.