



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

ALBERTA BARLEY COMMISSION REGULATION

Alberta Regulation 123/1999

With amendments up to and including Alberta Regulation 41/2019

Current as of March 11, 2019

Office Consolidation

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Note

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(Consolidated up to 41/2019)

ALBERTA REGULATION 123/99
Marketing of Agricultural Products Act
ALBERTA BARLEY COMMISSION REGULATION

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Definitions

1(1) In this Regulation,

- (a) "Act" means the *Marketing of Agricultural Products Act*;
- (b) "Plan" means the *Alberta Barley Plan Regulation* (AR 111/99).

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

AR 123/99 s1;3/2009

Service charges

2(1) A producer who sells regulated product must pay to the Commission a service charge in the amount of \$1 per metric tonne or portion of a metric tonne of regulated product sold.

(1.1) Commencing with the 2017 crop year, a producer who sells regulated product must pay to the Commission a service charge in the amount of \$1.20 per metric tonne or portion of a metric tonne of regulated product sold.

(2) A dealer who

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

must

- (c) deduct the service charges specified in subsection (1) from the proceeds payable to or on behalf of that producer;
- (d) within 55 days from the end of the month in which the service charge was deducted, forward to the Commission
 - (i) the service charge deducted under clause (c), and
 - (ii) the report prepared under section 9;
- (e) provide to that producer a statement, cheque stub or other document that clearly shows
 - (i) the amount of the service charge that was deducted,
 - (ii) the name and address of the dealer, and
 - (iii) the date of the transaction in respect of which the deduction was made.

AR 123/99 s2;100/2003;210/2009;87/2017;41/2019

Variation of service charge

3(1) The Commission may 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 majority vote of the directors and delegates at an annual Commission meeting or a special Commission meeting, and approved by the Council.

AR 123/99 s3;41/2019

Refund of service charges

4(1) Subject to this section, any service charge that is paid by or on behalf of a producer is refundable to that producer on request of that producer.

- (2) A request for a refund of the service charge
- (a) must be in a form prescribed by the Commission and must contain the information required by the Commission, and
 - (b) must be accompanied with a cheque stub or other documentary evidence provided by the dealer showing that the service charge was deducted.
- (3) Requests for refunds must be received by the Commission's head office within 6 months from the end of the month in which the service charge was deducted.
- (4) Any request for a refund that is not received by the Commission within the time period specified under subsection (3) shall not be considered by the Commission, and the producer is not entitled to a refund in respect of the service charge in question except in cases where the Commission considers that extenuating circumstances exist.
- (5) The Commission must refund the service charge to the producer within 120 days from the day that the request for a refund of the service charge is received, if the request complies with this section.

AR 123/99 s4;14/2004

Dealer's licence required

- 5(1)** A person shall not carry on the business of a dealer in the regulated product unless that person is licensed as a dealer under this Regulation.
- (2) Notwithstanding subsection (1), if a producer markets regulated product produced by that producer, the producer does not require a dealer's licence.

Application for dealer's licence

- 6(1)** A person may apply to the Commission for a licence to operate as a dealer.
- (2) An application for a dealer's licence must contain the information required by the Commission.
- (3) The Commission may require an applicant for a licence to submit any additional information the Commission considers necessary.
- (4) The Commission must consider every application that it receives.

Issuance of licences

- 7(1)** If the Commission is satisfied that a dealer's licence should be granted to the applicant, the Commission must issue a dealer's licence to the applicant.
- (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.
- (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

- 8(1)** The Commission may refuse to issue a dealer's licence
- (a) if the applicant fails to provide information or additional information required by the Commission under section 6(2) and (3),
 - (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 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 cancel or suspend a licence or refuse to renew a 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 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 for a hearing to show cause why the licence

should not be refused, suspended, cancelled or not renewed.

(6) If the Commission receives an application under subsection (5), 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.

(7) At the hearing referred to in subsection (6), the person who made the application under subsection (5) must be given an opportunity

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

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

(9) The Commission, pursuant to this section, may grant a licence to an applicant whose licence was refused, cancelled or not renewed or remove the suspension from a licence.

Reports to Commission

9 A dealer must prepare and forward in accordance with section 2(2)(d) a monthly report to the Commission of

- (a) the amount of regulated product purchased or acquired from each producer during the period covered by the report,
- (b) the amount of service charge being paid on behalf of each producer, and
- (c) the name, address and e-mail address of each producer from whom regulated product was purchased or acquired and the date of each such transaction in respect of which a deduction was made.

AR 123/99 s9;14/2004;41/2019

Information

10 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.

Inspection of records

11(1) A person who is required by this Regulation to keep records or other information 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

12(1) In this section, “funds” includes

- (a) service charges,
- (b) any other money received or earned by the Commission, and
- (c) any interest that accrues from maintaining the money referred to in clauses (a) and (b).

(2) Any funds received by the Commission may be used by the Commission for the purpose of paying its expenses and administering and enforcing

- (a) the Act,
- (b) the Plan,

- (c) this Regulation,
- (d) any other regulations made under the Act in respect of the Plan or the Commission, and
- (e) any direction or order of the Council or the Commission.

Interest

13 Interest must be paid to the Commission for any late payment of service charges at the rate of 2% per month calculated on the balance due.

Legal action

14 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).

Service

15(1) A notice under section 8(5)(a) or a request for information under sections 10, 11(1)(b) and 11(2) must be in writing and may be served

- (a) by ordinary mail sent to that person's last address shown on the records of the Commission, or
- (b) by facsimile, e-mail or other electronic means sent to that person's last electronic address shown on the records of the Commission.

(2) A notice or request for information

- (a) under subsection (1)(a) is deemed to be received no later than 7 days from the date of mailing;
- (b) under subsection (1)(b) is deemed to be received the same day it is transmitted.

16 Repealed AR 3/2009 s3.

Repeal

17 The *Alberta Barley Commission Regulation* (AR 251/91) is repealed.

Expiry

18 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, 2024.

AR 123/99 s18;14/2004;3/2009;208/2013;41/2019



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