



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

**ALBERTA VEGETABLE GROWERS
(PROCESSING) MARKETING
REGULATION**

Alberta Regulation 160/2007

With amendments up to and including Alberta Regulation 35/2015

Office Consolidation

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(Consolidated up to 35/2015)

ALBERTA REGULATION 160/2007

Marketing of Agricultural Products Act

**ALBERTA VEGETABLE GROWERS
(PROCESSING) MARKETING REGULATION**

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Interpretation

1(1) In this Regulation,

- (a), (b) repealed AR 35/2015 s3;
- (c) “licensed processor” means a person who holds a processor’s licence under this Regulation;
- (d) “licensed producer” means a person who holds a producer’s licence under this Regulation;
- (e) repealed AR 35/2015 s3;
- (f) “registrant” means a person who has registered with the Board as a registrant under this Regulation.

(2) Words defined in the *Alberta Vegetable Growers (Processing) Plan Regulation (AR 273/97)* have the same meaning when used in this Regulation.

AR 160/2007 s1;35/2015

Application

2(1) This Regulation applies

- (a) to all persons who grow, produce, market or process the regulated product in a district, and
- (b) to all classes, varieties, sizes, grades and kinds of the regulated product.

(2) The Board may exempt persons from the requirement to hold a producer’s or processor’s licence as required by this Regulation.

(3) The Board may exempt certain sales from being included in the total sale price for the purposes of calculating service charges under Part 3.

Part 1

Licensing of Producers

Application for registration

3 Every person who wishes to be a registrant with the Board must apply to the Board for registration by providing to the Board, on a form prescribed by it, the following information:

- (a) the name, telephone number and mailing address of the applicant;
- (b) the legal description of the land on which the applicant intends to grow the regulated product;
- (c) any other relevant information that the Board may require to make a decision on the application.

List of registrants

4 The Board must establish and maintain at its head office a list of registrants and must assign a registration number to each registrant.

Producer's licence

5(1) A registrant must enter into an intent to contract, satisfactory to the Board, with a licensed processor before applying to the Board for a producer's licence in a form prescribed by the Board.

(2) An application for a producer's licence must include

- (a) the name, telephone number and mailing address of the applicant,
- (b) the legal description of the land on which the applicant intends to grow the regulated product,
- (c) if the applicant is an individual, proof satisfactory to the Board that the applicant is a resident of Canada and that the applicant is a Canadian citizen or lawfully admitted to Canada for permanent residence,
- (d) if the applicant is a partnership, the names, addresses and telephone numbers of the partners and proof satisfactory to the Board that

- (i) at least 50% of the partners in the partnership are persons who are Canadian citizens or lawfully admitted to Canada for permanent residence, and
 - (ii) at least 50% of the beneficial ownership of the partnership is held by persons who are Canadian citizens or lawfully admitted to Canada for permanent residence,
- (e) if the applicant is a corporation, its registered head office address and the names of its directors and officers and proof satisfactory to the Board that
- (i) at least 50% of the members or shareholders of the corporation are persons who are Canadian citizens or lawfully admitted to Canada for permanent residence, and
 - (ii) at least 50% of the beneficial ownership of the corporation is held by persons who are Canadian citizens or lawfully admitted to Canada for permanent residence,
- (f) if the applicant is
- (i) an unincorporated organization other than a partnership, or
 - (ii) a group of individuals who are carrying on an activity for a common purpose and are neither a partnership nor an unincorporated organization referred to in subclause (i),
- proof satisfactory to the Board that at least 50% of the members of the unincorporated organization or of the group of individuals are persons who are Canadian citizens or lawfully admitted to Canada for permanent residence, and
- (g) any additional information that the Board considers necessary.
- (3)** The Board may issue a producer's licence to a registrant if the Board is satisfied that the registrant
- (a) meets the requirements of this section and section 3, and
 - (b) is the registered owner of, or has an interest in, land that is suitable for the production of the regulated product.
- (4)** A licensed producer must hold a separate producer's licence for each contract held with a licensed processor.

(5) A producer's licence must be in the form prescribed by the Board.

Expiry of licence

6 A producer's licence expires on March 31 following the year of its issue.

AR 160/2007 s6;35/2015

List of licensed producers

7 The Board must establish and maintain at its head office a list of licensed producers and must assign a licence number to each licence held by the producer.

Producer's licence authority

8 A producer's licence authorizes the licensee to engage in the production of the regulated product and to market the regulated product to a licensed processor in the area of Alberta to which the Plan applies on the land described in the licence.

Producer's licence required

9 No person other than a licensed producer, in good standing, shall produce or market through a licensed processor the regulated product in the area of Alberta to which the Plan applies.

Disposal of licence prohibited

10(1) No person shall sell, transfer, assign or otherwise dispose of a producer's licence.

(2) If a producer's licence is sold, transferred, assigned or otherwise disposed of, it is void.

Cancellation, suspension and refusal

11(1) The Board may refuse to grant a producer's licence if

- (a) it is of the opinion that the applicant has not complied with section 5,
- (b) it is of the opinion that the applicant has contravened the Act, the Plan, the regulations under the Act, a direction of the Council or an administrative order or directive of the Board, or
- (c) for any other reason it is satisfied that a licence should not be granted.

- (2) The Board may cancel or suspend a producer's licence if
- (a) the licensee is producing regulated product of poor quality and the poor quality is not due to circumstances beyond the licensee's control,
 - (b) the licensee has sold, transferred, leased, assigned or otherwise disposed of the land or interest in the land in respect of which the licence was granted,
 - (c) in the case of a licence issued to a partnership or a corporation, there is a change in the beneficial ownership of the partnership or the shares in the corporation without the prior approval of the Board,
 - (d) in the case of a licence issued to an unincorporated organization, other than a partnership, or to a group of individuals who are carrying on an activity for a common purpose and are neither a partnership nor an incorporated organization, there is a change in the membership of the unincorporated organization or group of individuals without the prior approval of the Board, or
 - (e) the licensee has contravened the Act, the Plan, the regulations under the Act, a direction of the Council or an administrative order or directive of the Board.
- (3) The Board must promptly notify in writing a person whose application for a producer's licence has been refused or whose licence has been cancelled or suspended.
- (4) A person who receives a notice of cancellation or suspension under this section must, on receipt of the notice, forthwith cease producing and marketing the regulated product.

AR 160/2007 s11;35/2015

Reinstatement

- 12** The Board may remove the suspension of a producer's licence if it considers it appropriate to do so.

Part 2

Processors' Licences

Application for licence

- 13** Every person who wishes to process the regulated product must apply to the Board for a processor's licence by providing to the Board, on a form prescribed by it, the following information:

- (a) the name, telephone number and mailing address of the processor;
- (b) the address of the processor, if it is not the mailing address;
- (c) any other information that the Board may require to make a decision on the application.

Granting of licence

14(1) The Board may issue a processor's licence to an applicant if it is satisfied that it is appropriate to do so.

(2) A processor's licence must be in the form prescribed by the Board.

Expiry of licence

14.1 A processor's licence expires on March 31 following the year of its issue.

AR 35/2015 s5

Authority of licence

15 A processor's licence is authority for the processor to receive and process the regulated product in accordance with this Regulation.

Disposal of licence prohibited

16(1) No person shall sell, transfer, assign or otherwise dispose of a processor's licence.

(2) If a processor's licence is sold, transferred, assigned or otherwise disposed of, it is void.

Cancellation, suspension and refusal

17(1) The Board may refuse to grant a processor's licence or cancel or suspend a processor's licence if it is of the opinion that the applicant or licensee has contravened the Act, the Plan, the regulations under the Act, a direction of the Council or an administrative order or directive of the Board.

(2) The Board must promptly notify in writing a person whose application for a processor's licence has been refused or whose licence has been cancelled or suspended.

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

AR 160/2007 s17;35/2015

Reinstatement

18 The Board may remove the suspension of a processor's licence if it considers it appropriate to do so.

Dual licensing

19 If a person operates in the capacity of a processor and in the capacity of a producer, this Regulation applies to that person in each capacity and that person must hold both a processor's licence and a producer's licence.

Part 3

Service Charges, Levies and Records

Service charges and levies

20(1) Every licensed producer must pay to the Board a service charge at the rate set annually by the Board of up to 1.75% of the total sale price of the regulated product delivered to a licensed processor.

(2) A licensed processor must deduct the service charges payable by a licensed producer from the sum of money due to the person from whom the regulated product was received and must forward the service charges to the Board not later than December 31 each year.

(3) Notwithstanding subsection (1), an increase in the service charge above the rate referred to in subsection (1) shall not be effective until it has been approved by a vote of the licensed producers at an annual general meeting or a special general meeting.

AR 160/2007 s20;233/2008;35/2015

Collection of service charges and levies

21 The Board may collect by legal action,

- (a) from a licensed producer, all service charges payable by the licensed producer under this Regulation and not actually paid, and
- (b) from any other person, all money owing to a licensed producer for the regulated product.

Records, statements, etc.

22(1) A person engaged in producing or marketing the regulated product must keep a complete and accurate record of all matters relating to the production and marketing of the regulated product, including but not limited to crop rotation, chemical use and irrigation, as they apply to the person's operation.

(2) The Board may by written notice require a person engaged in producing or marketing the regulated product to furnish information relating to its production or marketing that is specified in the notice, and a person to whom such a notice is given must comply with it.

(3) A person who produces or markets the regulated product must, at the request of the Board, deliver to the Board an itemized statement showing the gross amount of money received by the person from the sale of the regulated product grown or marketed by the person over the period of time stipulated by the Board.

(4) A licensed processor must, on or before December 1 of every year, deliver to the Board a statement containing the following information:

- (a) the name and address of every licensed producer who has sold or delivered or has contracted or agreed to sell or deliver in that year any of the regulated product to the licensed processor;
- (b) the number of acres of land used by the licensed producers referred to in clause (a) for the production of the regulated product, shown separately for each licensed producer;
- (c) the total sale price, before deductions, paid or to be paid by the licensed processor to the licensed producers referred to in clause (a), shown separately for each licensed producer.

(5) A licensed processor must, on or before July 1 of every year, deliver to the Board a statement showing the licensed producers with whom the licensed processor has contracted for that year, including the address of each licensed producer and the legal description and acreage of the land on which each crop covered by a contract is to be grown.

(6) A licensed processor must, within 30 days after receiving a request from the Board, deliver to the Board a statement showing, with respect to each licensed producer and crop specified in the request, the total acreage and tonnage figures with respect to each crop produced by that licensed producer and received by the licensed processor.

Part 4 General

Orders and directions

23(1) The Board may issue any administrative orders and directives it considers necessary to carry out and enforce this Regulation and to carry out the purposes of the Plan generally.

(2) A person to whom an administrative order or directive is made under this section must comply with it.

AR 160/2007 s23;35/2015

Expenses of Board

24 The Board may use service charges and money arising from investments of, and any other income earned by, the Board for the purpose of paying Board expenses and administering the Plan and the regulations made by the Board.

AR 160/2007 s24;35/2015

Prohibitions

25(1) No processor shall enter into a contract for the purchase of the regulated product or buy the regulated product produced by any person in the area of Alberta to which the Plan applies unless the processor has a valid processor's licence.

(2) No licensed processor shall enter into a contract for the purchase of the regulated product with any person or buy the regulated produce from any person in the area of Alberta to which the Plan applies unless the person is a registrant.

(3) No person shall produce or market the regulated product produced in the area of Alberta to which the Plan applies unless that person holds a producer's licence and a contract with a licensed processor.

(4) No licensed producer shall sell, offer for sale or deliver the regulated product produced in the Area of Alberta to which the Plan applies to any person other than a licensed processor.

(5) No person shall sell, buy, deliver or receive, or offer to sell, buy, deliver or receive the regulated product produced in the area

of Alberta to which the Plan applies except in accordance with this Regulation or on terms other than those negotiated by the Board and the licensed processors or fixed by an arbitrator pursuant to regulations made by the Council.

AR 160/2007 s25;35/2007

Notices

26 When a notice is required to be given under this Regulation

- (a) by the Board, it is sufficiently given if it is served personally on the person to whom it is directed, or is sent by mail addressed to the person at the mailing address on record with the Board, or
- (b) to the Board, it is sufficiently given if it is served personally at or sent by mail to the head office of the Board.

Notice of change

27 If any change occurs in the information provided to the Board by a licensed producer or licensed processor, that person must forthwith notify the Board of the change.

Part 5 Transitional Provisions and Expiry

28 Repealed AR 35/2015 s10.

Expiry

29 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 November 30, 2020.

AR 160/2007 s29;35/2015



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