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Department of Agriculture
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Subject: Implements supervised price bargaining process for Tournament® Quality perennial ryegrass.

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603-076-0005

Definitions

As used in these regulations, unless the context requires otherwise:

- (1) "Dealer" and "perennial ryegrass seed dealer" has the same meaning provided by the definition of perennial ryegrass seed dealers under ORS 646.515(3).
- (2) "PRBA" means the Perennial Ryegrass Bargaining Association.
- (3) "Mediate" or "mediation" has the same meaning as ORS 36.110(6)
- (4) "Price negotiation," "negotiate," or "bargain" means to discuss the terms of a contract price and related issues and attempt to come to terms.
- (5) "Director" means the Director of Agriculture or a designee of the Director of Agriculture.
- (6) "Department" means the Oregon Department of Agriculture.
- (7) "Active supervision," "active state supervision," and "actively supervise" means the Department's regulatory oversight of the price discussions among dealers, and price negotiations between dealers and grower representatives of the PRBA for the purpose of arriving at a negotiated price for the sale of Tournament® Quality seed.

(8) "Negotiated price" means the proposed price agreed upon by representatives of PRBA and seed dealers for Tournament® Quality seed.

(9) "Established price" means the price set and approved by the Director as the minimum price at which Tournament® Quality seed shall be sold to seed dealers.

(10) "Tournament® Quality perennial ryegrass seed" means turf-type perennial ryegrass seed produced by a member of the PRBA meeting Tournament® Quality mechanical standards, each lot of which meets the Oregon certified mechanical standards (for purity and germination) and which lot is free, in a 5-gram sample, of contamination of certain grasses classified as "coarse grasses" or "undesirable grass seed (UGS)" which include the following species: bentgrass, bermudagrass and giant bermudagrass, *Poa trivialis*, meadow fescue, orchardgrass, redtop, timothy, velvetgrass, and grass of the bromus and wheatgrass species; and which lot is free, in a 50-gram sample, of *Poa annua* and noxious weeds listed in the Oregon Seed Certification Handbook.

(11) "State action immunity" means immunity liability under the federal antitrust laws and the Oregon Antitrust Act for conduct that is carried out pursuant to a regulatory program in which competition in certain areas of the perennial ryegrass industry is displaced by regulations and active state supervision in accordance with ORS 62.015, 62.845, 646.535 and 646.740.

(12) "Parties" or "party" means perennial ryegrass seed producers, perennial ryegrass seed associations, perennial ryegrass seed cooperatives or perennial ryegrass seed dealers who are participants in the state regulatory program for establishing prices on perennial ryegrass.

(13) "Regulatory program" means the state regulatory program described in ORS 62.015, 62.845, 646.535 and 646.740 that is actively supervised by the Director of Agriculture, and that authorizes parties to engage in bargaining and negotiations to establish the price and terms of perennial ryegrass products produced and sold to seed dealers.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 62.015, ORS 646.535, ORS 646.740

Stats. Implemented:

Hist.: DOA 25-2001, f. & cert. ef. 11-6-01

603-076-0016

Active State Supervision of Perennial Ryegrass Price Negotiations

To ensure that the Director is actively supervising the conduct of the grower representatives and the seed dealers under the regulatory program in accordance with the requirements of the federal antitrust laws and the Oregon Antitrust Act:

(1) The Director shall annually convene duly elected or appointed representatives of the Perennial Ryegrass Bargaining Association (PRBA) and perennial ryegrass seed dealers, at a predetermined location, date and time to enter into price negotiations and reach agreement on a negotiated price for review and approval by the Department. The Director may schedule a series of meetings between the representatives of the PRBA and dealers. The names and affiliations of the representatives of PRBA and the dealers shall be provided to the Department at least three working days prior to the meeting.

(2) The Director or his designee shall attend all meetings between the PRBA and seed dealer representatives pursuant to the regulatory program and shall monitor and, if necessary, mediate the price negotiations between the representatives at these meetings.

(3) Minutes of all meetings between representatives of the PRBA and the seed dealers will be created and maintained by the Department and distributed to interested parties.

(4) Within two (2) days after the final meeting between the representatives of the PRBA and seed dealers, the representatives shall either:

(a) Submit to the Director for review and approval a negotiated price effective for one-year; or

(b) Notify the Director that the bargaining representatives cannot arrive at a negotiated price, and either (1) ask for a suggested price from the Director which the representatives may further consider, or (2) suggest to the Director a specified price range for his consideration, from which the Director shall determine the price that represents the interests of the state and the industry based on the information and facts available.

(5) Within two (2) days after the parties' submission under section (4), the Director shall approve an established price, or reject the parties' negotiated price and direct the parties to continue their negotiations. The Director may request any information deemed necessary from the parties to understand, review and approve the established price. The Director shall immediately notify the parties of the decision under this section in writing.

(6) In approving the established price, the Director shall consider the negotiated price reached by the representatives of the PRBA and the seed dealers. The Director may also consider perennial ryegrass seed Tournament® Quality inventories, volumes contracted, production factors, competitive factors, local, national and world market prices, the influence of imported product on prices, and any other factors the Director deems necessary to approve the established price.

(7) The Director must approve the established price and any adjustments to established prices previously approved by the Director before the established prices shall be implemented by the parties.

(8) If extraordinary market conditions dictate, representatives of PRBA or dealers may petition the Director to allow negotiations to adjust the price previously established by the Director. The Director shall have the sole discretion to decide whether to allow renegotiations or adjustments in price upon the petition for adjustment. The decision of the Director in this regard shall be final.

(9) The authorizing legislation establishes that the parties to the negotiations shall reimburse the Department for costs associated with supervising and administering the regulatory program. The Department will provide the parties with an itemized list of costs associated with program supervision, and cost recovery shall be as follows:

(a) Department consultative fees for Attorney General counsel directly related to supervising the regulatory program shall be divided evenly between the parties and reimbursed to the Department.

(b) The PRBA and the seed dealers shall each pay \$45 per hour to the Department for time devoted to administration and supervision of the regulatory program, and shall share travel costs and expenses of the Department associated with the administration and supervision of the regulatory program.

Stat. Auth.: ORS 62.846(2)(3)(4)

Stats. Implemented: ORS 62.015, ORS 62.845, ORS 646.535 & ORS 646.740

Hist.: DOA 25-2001, f. & cert. ef. 11-6-01