



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

ALBERTA SOFT WHEAT PRODUCERS PLAN REGULATION

Alberta Regulation 23/1999

With amendments up to and including Alberta Regulation 28/2011

Office Consolidation

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Alberta Queen's Printer
5th Floor, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

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(Consolidated up to 28/2011)

ALBERTA REGULATION 23/99

Marketing of Agricultural Products Act

ALBERTA SOFT WHEAT PRODUCERS PLAN REGULATION

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Interpretation**1(1)** In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (b) “annual Commission meeting” means an annual general meeting of the persons who hold positions on the Commission and the region delegates;
- (c) “annual region meeting” means an annual general meeting of the region executive and the producers who reside in the region and are eligible to attend the meeting;
- (c.1) “assets” means economic resources controlled by the body as a result of past transactions and from which future economic benefits may be obtained;
- (c.2) “auditor” means a person registered under the *Regulated Accounting Profession Act* or a firm or partnership of those persons;
- (d) “board” means the board of directors of the Commission;
- (e) “Commission” means the Alberta Soft Wheat Commission;
- (f) “Council” means the Alberta Agricultural Products Marketing Council;
- (g) “crop year” means the period from August 1 of one year to July 31 of the following year;
- (h) “dealer” means a person purchasing or acquiring regulated product from a producer and includes, but is not limited to,
 - (i) elevator companies, grain companies, grain dealers, seed dealers, producer car shippers, dealer car shippers and processors, and
 - (ii) persons who acquire regulated product from the producer for sale on the producer’s behalf;
- (i) “director” means a director of the Commission;

- (i.1) “investment” means a commitment of assets in order to gain a financial return but does not include an expenditure of assets for the purposes of research and development or current operations;
- (j) “marketing”
 - (i) means buying, owning, selling, offering for sale, storing, grading, assembling, packing, transporting, advertising or financing, and
 - (ii) includes any other function or activity designated as marketing by the Lieutenant Governor in Council;
- (k) “person” means a person as defined in the *Interpretation Act* and includes
 - (i) a partnership as defined in the *Partnership Act*,
 - (ii) any unincorporated organization that is not a partnership referred to in subclause (i), and
 - (iii) any group of individuals who are carrying on an activity for a common purpose and are neither a partnership referred to in subclause (i) nor an unincorporated organization referred to in subclause (ii);
- (l) “producer” means a person who
 - (i) grows soft wheat for sale on one or more parcels of land in Alberta, or
 - (ii) is entitled to a share of the soft wheat grown on any land pursuant to a crop share arrangement;
- (m) “regulated product” means soft wheat;
- (n) “soft wheat” means any wheat that
 - (i) has the kernel characteristics of being “soft” and “white”, and
 - (ii) comes under the Genus Species (TRITICUM AESTIVUM L. em THELL) and includes
 - (A) wheat that comes under the Canadian Grain Commission 800 series given code and the tough, damp and feed wheat grades of that wheat, and
 - (B) feed wheat of that species;

- (o) “special Commission meeting” means a special general meeting of the persons who hold positions on the Commission and the region delegates;
- (p) “special region meeting” means a special general meeting of the region executive and the producers who reside in the region and are eligible to attend the meeting.

(2) Where under this Plan it is provided that a person may be given notice by ordinary mail, that notice may instead be given to that person by

- (a) being delivered personally to that person, or
- (b) by being sent to that person by electronic means.

AR 23/99 s1;72/2010;28/2011

Designation of agricultural product

2 Soft wheat is designated as an agricultural product for the purposes of the Act.

Part 1 General Operation of Plan

Division 1 Plan

Plan continued

3 The Alberta Soft Wheat Producers Plan established under the *Alberta Soft Wheat Producers Plan Regulation* (AR 226/90) is hereby amended, revised and continued under this Regulation with the name “Alberta Soft Wheat Producers Plan”.

Termination of Plan

4 This Plan does not terminate at the conclusion of a specific period of time and shall remain in force unless otherwise terminated pursuant to the Act.

Application of Plan

5 This Plan applies

- (a) to all of Alberta,
- (b) to producers in Alberta who produce the regulated product, and

- (c) for the purposes of sections 9(a) to (e) and 12, to dealers and any other persons who are not producers and who market or process the regulated product.

Purposes of Plan

6(1) The purposes of the Plan are to do the following:

- (a) to encourage research and development of new and better varieties of soft wheat that meet the needs of producers and end users;
- (b) to encourage research projects and programs to reduce disease, maximize fertilizer efficiency, improve irrigation practices and generally maximize quality and yield of soft wheat;
- (c) to initiate and carry out projects or programs to stimulate, increase and improve the production and marketing of soft wheat in Alberta;
- (d) to provide programs to assist members in arranging contracts for the sale of soft wheat products to dealers;
- (e) to assist generally in the development and promotion of the soft wheat industry in Alberta, including the development and promotion of export markets for soft wheat grown in Alberta;
- (f) to provide recommendations for quality standards to the Government of Canada, the Government of Alberta and regulatory bodies;
- (g) to co-operate with the Government of Canada and the Government of Alberta with respect to the maintenance of the quality of soft wheat;
- (h) to assist, educate and inform producers, dealers and processors in developing and improving methods regarding the production, processing and marketing of soft wheat;
- (i) to act as a forum for the discussion, formulation and recommendation of advantageous methods of production, handling and marketing of soft wheat;
- (j) to promote the co-operation and co-ordination of all soft wheat growers in Alberta with respect to improving the production and marketing of soft wheat;

- (k) to initiate and carry out advertising programs, sales promotion programs and consumer education programs to expand the market awareness and demand for soft wheat and soft wheat products, in both domestic and export markets;
 - (l) to advise governments and other bodies on matters concerning the soft wheat industry;
 - (m) to co-operate with persons, associations, marketing commissions and marketing boards that have objectives similar to those of the Commission.
- (2) Under this Plan neither the production nor the marketing of the regulated product shall be controlled or regulated.

Division 2

Operation of Plan by Commission

Commission continued

- 7 The Alberta Soft Wheat Commission is hereby continued.

Functions of Commission

8 The Commission

- (a) is responsible for the operation, regulation, supervision and enforcement of this Plan;
- (b) shall
 - (i) open and maintain one or more accounts in a bank, trust company, credit union, Treasury Branch or other depository, and
 - (ii) designate such officers, employees and other persons as are necessary to sign cheques and transact the Commission's business with its bank, trust company, credit union, Treasury Branch or other depository;
- (b.1) when investing its assets must make prudent investments in accordance with the requirements of section 3 of the *Trustee Act* respecting the investment of assets and may delegate to an agent in accordance with section 5(1) to (3) of that Act;
- (b.2) must establish policies respecting the management of its assets as required by the *Operation of Boards and Commissions Regulation* (AR 26/99);

- (c) may
 - (i) enter into an operating line of credit or other loan agreement with its bank, trust company, credit union, Treasury Branch or other lending institution, and
 - (ii) designate such officers, employees and other persons as are necessary to transact the Commission's business;
- (d) shall cause such books and records, including financial records, to be maintained
 - (i) as from time to time may be required under the Act, the regulations or by virtue of any order of the Council, or
 - (ii) as may be determined by the Commission;
- (e) shall maintain an office, the location of which shall at all times be made known to each producer;
- (f) may appoint officers, employees and agents, prescribe their duties and fix and pay their remuneration;
- (g) may, subject to the Act, the regulations and any orders of the Council, issue such general orders governing the Commission's internal operation as the board may from time to time determine;
- (h) may become a member of any agricultural organization;
- (i) may contribute funds to any agricultural organization;
- (j) subject to section 11, to finance the purposes of the Plan, may retain earnings and revenues from year.

AR 23/99 s8;28/2011

Operation of Plan re regulations

9 For the purposes of enabling the Commission to operate the Plan, the Commission may be empowered by the Council, pursuant to section 26 of the Act, to make regulations

- (a) requiring any person who produces, markets or processes the regulated product to furnish to the Commission any information or record relating to the production, marketing or processing of the regulated product that the Commission considers necessary;

- (b) requiring persons, other than producers, to be licensed under this Plan before they become engaged in marketing or processing of the regulated product;
- (c) prohibiting persons, other than producers, from engaging in the marketing or processing of the regulated product except under the authority of a licence issued under this Plan;
- (d) governing the issuance, suspension or cancellation of a licence issued under this Plan;
- (e) providing for
 - (i) the assessment, charging and collection of service charges from producers, and
 - (ii) the taking of legal action to enforce payment of the service charges;
- (f) providing for the refund of service charges;
- (g) requiring any person that receives the regulated product from a producer
 - (i) to deduct from the money payable to the producer any service charge payable by the producer to the Commission, and
 - (ii) to forward the amount deducted to the Commission;
- (h) providing for the use of the service charges payable to or received by the Commission for the purposes of paying the Commission's expenses and the costs of administering this Plan and the regulations made by the Commission.

Financing of Plan

10 In accordance with the regulations,

- (a) this Plan shall be financed
 - (i) by the charging and collection of service charges from producers, and
 - (ii) from other money payable to or received by the Commission including, without restricting the generality of the foregoing, money arising from investments of and other income earned by the Commission;

- (b) every producer engaged in production of the regulated product shall pay a service charge on each metric tonne, or part thereof, of regulated product sold by the producer;
- (c) the Commission may, from time to time, change the amount of the service charge, but the change shall not be effective until it has been approved at an annual Commission meeting or a special Commission meeting.

Service charges refundable

11(1) In accordance with the regulations,

- (a) the service charge only shall be refundable to a producer on the request of the producer;
- (b) the request for a refund of the service charge must be made in writing on a form established by the Commission;
- (c) requests for refunds must be received by the Commission at the Commission's head office
 - (i) 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
 - (ii) 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;
- (d) any request for a refund that is not received by the Commission within the time periods specified under clause (c) shall not be considered by the Commission and the producer will not be entitled to a refund in respect to the service charges in question;
- (e) the Commission shall refund the service charge to the producer within 90 days from the end of the period to which the request relates, if the request complies with the regulations.

(2) In the event that within one crop year

- (a) the producers requesting a refund of the service charges comprise more than 35% of the existing producers, and
- (b) those producers requesting a refund account for at least 35% of the service charges collected during the current crop year,

the continued operation of this Plan shall be subject to the approval by a majority of producers at a plebiscite to be held under the direction of the Council pursuant to the Act.

(3) The Commission shall, within 90 days following the end of a crop year, report to the Council the refunds referred to in this section that were made for that crop year.

Collection of service charge

12 In accordance with the regulations,

- (a) all dealers who
 - (i) purchase regulated product from a producer, or
 - (ii) acquire regulated product from a producer for sale on the producer's behalfshall deduct the amount of the service charge from any proceeds payable to or on behalf of the producer;
- (b) any dealer 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 last day of the month in which the service charge was collected;
- (c) a dealer who fails
 - (i) to deduct a service charge in respect of regulated product sold by or on behalf of a producer in accordance with clause (a), or
 - (ii) to pay the service charge to the Commission in accordance with clause (b),is liable to the Commission for the amount of the service charge;
- (d) all persons required under this Plan to collect and pay to the Commission the service charge payable by a producer shall
 - (i) pay the service charge to the Commission, and
 - (ii) provide to the Commission, for each producer, a summary detailing
 - (A) the amount of regulated product obtained from the producer,

- (B) the amount of the service charge being paid on behalf of the producer, and
- (C) the name and address of the producer.

AR 23/99 s12;72/2010

Auditor, etc.

13(1) The auditor for the Commission shall be appointed from time to time at an annual Commission meeting or a special Commission meeting.

(2) The books, accounts and records of the Commission and the region executives shall be audited at least once in every fiscal year.

(3) The report of the auditor shall,

- (a) in respect of the books, accounts and records of the Commission, be submitted at the annual Commission meeting, and
- (b) in respect of the books, accounts and records of a region executive, be submitted at the region's annual region meeting.

AR 23/99 s13;72/2010

Fiscal year

14 The fiscal year of the Commission and the region executives is August 1 to the following July 31.

AR 23/99 s14;72/2010

Indemnity fund, etc.

15 A fund shall not be established under section 34 or 35 of the Act.

Honorary memberships, etc.

16 The Commission may establish non-voting associate, industry, affiliate or honorary memberships under this Plan to provide interested individuals or organizations with the opportunity to contribute to the efforts of the Commission.

Quorum

17 With respect to a meeting of the board, the quorum necessary for the conduct of business is a majority of the persons who hold positions on the board at the time of the meeting.

Part 2 Governance of Plan

Division 1 Producers

Eligible producer

18 For the purposes of this Plan, an eligible producer is a producer who has

- (a) produced the regulated product, and
- (b) paid the required service charges.

AR 23/99 s18;72/2010

General rights of producers

19 In accordance with and subject to this Plan, a producer who is an eligible producer is entitled, as a matter of right,

- (a) to attend annual region meetings, special region meetings, annual Commission meetings and special Commission meetings;
- (b) to make representations on any matter pertaining to this Plan, the Commission and the board;
- (c) to vote on any matter under this Plan;
- (d) to vote in any election for directors;
- (e) to hold office as a director;
- (f) to vote in any plebiscites of producers held under the Act.

AR 23/99 s19;72/2010

Producers who are individuals

20 Where a producer who is an eligible producer is an individual, that individual may, subject to this Plan, exercise the rights of an eligible producer referred to in section 19.

AR 23/99 s20;72/2010

Producers that are not individuals

21(1) Where a producer who is an eligible producer is not an individual, that producer may exercise the rights of a producer referred to in section 19 only in accordance with this section.

(2) A producer to which this section applies shall appoint an individual to be the representative of the producer.

- (3)** A representative appointed by a producer under this section shall, subject to this Plan, exercise on behalf of the producer the rights referred to in section 19.
- (4)** If an eligible producer is
- (a) a corporation, it shall appoint an individual who is a director, shareholder, member, officer or employee of the corporation as its representative,
 - (b) a partnership, it shall appoint an individual who is a partner or employee of the partnership as its representative, or
 - (c) an organization, other than a corporation or a partnership, it shall appoint an individual who is a member, officer or employee of the organization as its representative.
- (5)** An appointment of a representative under this section shall be
- (a) in writing, and
 - (b) in the case where a vote is to be taken at a meeting, filed with the returning officer prior to the calling to order of the meeting at which a vote is to take place.
- (6)** An individual who is the representative of a producer shall not cast a vote under this Plan unless
- (a) the individual presents a document signed by the producer indicating the name of the person who may vote for the producer, or
 - (b) the individual makes a statutory declaration stating that
 - (i) the individual is a representative of the eligible producer,
 - (ii) the individual has not previously voted in the election or on the matter in respect of which the individual wishes to cast a vote, and
 - (iii) the producer is an eligible producer under this Plan.
- (7)** A statutory declaration made under subsection (6)(b) shall be made in writing before the returning officer or the deputy returning officer prior to the vote being cast.
- (8)** An individual cannot at any one time be a representative under this section for more than one eligible producer.

(9) A representative shall not vote or hold office before the representative's appointment is filed in accordance with subsection (5).

AR 23/99 s21;72/2010

Division 2 Regions

Regions

22 For the purposes of this Plan, Alberta is divided into 3 regions.

AR 23/99 s22;72/2010

Regions set out in Schedule

23 The area included in each region is as set out in the Schedule to this Plan.

AR 23/99 s23;72/2010

Region executive and delegates

24(1) Each region shall have its own region executive consisting of

- (a) the region chair,
- (b) the region vice-chair,
- (c) the region secretary, and
- (d) any other region director as may be required by the Commission.

(2) Each region may be represented at an annual Commission meeting or a special Commission meeting by region delegates.

(3) In order to be eligible to hold office on a region executive or to be a region delegate, a person must

- (a) be an eligible producer under this Plan, and
- (b) be carrying on production of the regulated product within the region or have carried on production of the regulated product within the region when the person last produced the regulated product.

(4) A region is entitled to have

- (a) 10 delegates, or
- (b) one delegate for every 20 producers in the region who are eligible to vote at an annual region meeting,

whichever is the greater number.

(5) Members of the region executive and the region delegates shall be elected to their positions at the annual region meeting.

AR 23/99 s24;72/2010

Annual region meetings

25(1) An annual region meeting shall be held every year in each region.

(2) The annual region meeting shall

- (a) be organized by the region executive,
- (b) be financed by the Commission, and
- (c) be held not more than 120 days or less than 30 days prior to the commencement of the annual Commission meeting.

(3) The purposes of the annual region meeting are

- (a) to conduct the elections for the region executive, the region delegates and 4 directors to the board;
- (b) to provide to the producers of the region
 - (i) information concerning the Commission and the operation of this Plan, and
 - (ii) an opportunity to provide to the Commission suggestions and recommendations;
- (c) to provide a forum for the producers of the region.

(4) Notice of the annual region meeting shall be given not less than 30 days prior to the commencement of the meeting, by the region secretary by ordinary mail to each member in the region who is an eligible producer or an honorary or other member referred to in section 16.

(5) Only eligible producers in a region are entitled to attend the annual region meeting.

(6) The region executive may permit other persons to attend an annual region meeting.

AR 23/99 s25;72/2010

Special region meetings

26(1) A region executive

- (a) may on its own initiative, and
- (b) shall
 - (i) on the written request of 30% of the eligible producers residing in the region, or
 - (ii) at the request of the Council,

hold a special region meeting.

(2) A special region meeting shall be held at a place and on a date that the region executive, by resolution, determines.

(3) A written notice of

- (a) the day, the hour and the place of the special region meeting, and
- (b) the nature of the business to be transacted at the meeting

shall be mailed by ordinary mail to all the persons who are entitled to attend an annual region meeting at least 30 days prior to the date of the special meeting.

(4) The order of business for a special region meeting shall be as set by the region executive or as requested by the Council.

(5) The provisions governing the conduct of a vote and the qualifications to vote at an annual region meeting apply to a special region meeting held under this section.

AR 23/99 s26;72/2010

Notice of region executive meetings

27(1) Notice of meetings of a region executive, other than an annual region meeting or a special region meeting, shall be given by ordinary mail or orally to those persons entitled to attend the meetings of the region executive.

(2) Notice given under subsection (1) shall be given not less than 7 days before the meeting is to commence.

AR 23/99 s27;72/2010

Quorum

28 The quorum necessary for the conduct of business is

- (a) in the case of a meeting of a region executive, a majority of the persons who hold positions on the region executive for that region at the time of the meeting;

- (b) in the case of an annual region meeting or a special region meeting, 10 persons who are entitled to be at the meeting.

AR 23/99 s28;72/2010

Division 3 Commission

Board of directors

29 The Commission shall have a board of directors consisting of 12 directors, with a maximum of 4 directors being elected from each of the 3 regions.

AR 23/99 s29;72/2010

President of Commission, etc.

30(1) The region delegates at the annual Commission meeting shall nominate from the members of the board

- (a) a person to be the president of the Commission, and
- (b) a person to be the vice-president of the Commission.

(2) The election of the president and vice-president of the Commission shall be conducted at the annual Commission meeting.

AR 23/99 s30;72/2010

Annual Commission meetings

31(1) An annual Commission meeting shall be held in every year.

(2) An annual Commission meeting shall be commenced within 13 months from the conclusion of the last annual Commission meeting.

(3) The annual Commission meeting shall be held at a place and on a date as the Commission may, by resolution, determine.

(4) The Commission shall, prior to any annual region meeting being held and at least 30 days prior to the annual Commission meeting being held, advise each region secretary of the time, place and date of the annual Commission meeting.

(5) The Commission secretary shall by ordinary mail advise each region delegate of the time, place and date of the annual Commission meeting at least 10 days prior to that meeting being held.

(6) The only persons entitled to vote at an annual Commission meeting are persons holding positions on the Commission and the region delegates.

(7) The Commission may permit any honorary or other member referred to in section 16 or other person to attend an annual Commission meeting.

AR 23/99 s31;72/2010

Special Commission meetings

32(1) The Commission

- (a) may on its own initiative hold a special Commission meeting, and
- (b) shall hold a special Commission meeting
 - (i) on the written request of 30% of the producers, or
 - (ii) at the request of the Council.

(2) A special Commission meeting shall be held at a place and on a date that the Commission, by resolution, determines.

(3) A written notice of

- (a) the day, the hour and the place of the special Commission meeting, and
- (b) the nature of the business to be transacted at the meeting

shall be mailed by ordinary mail to all the persons who are entitled to attend an annual Commission meeting at least 30 days prior to the date of the special meeting.

(4) The order of business for a special Commission meeting shall be as set by the Commission or as requested by the Council.

(5) The provisions governing the conduct of a vote and the qualifications to vote at an annual region meeting or an annual Commission meeting, as the case may be, apply to a special meeting held under this section.

AR 23/99 s32;72/2010

Notice of board meetings

33(1) Notice of meetings of the board shall be given by ordinary mail or orally to those persons entitled to attend the meetings.

(2) Notice given under subsection (1) shall be given not less than 7 days before the meeting is to commence.

Quorum

34 With respect to an annual Commission meeting or a special Commission meeting, the quorum necessary for the conduct of business is 15 persons who are entitled to vote at the meeting.

Division 4
Terms, Vacancies and Removal
from Office

Terms of office

35(1) The term of office for the following positions is 2 years:

- (a) a member of a region executive;
- (b) a region director;
- (c) the president of the Commission;
- (d) the vice-president of the Commission;
- (e) a director of the Commission.

(2) A person may be elected to not more than 3 consecutive complete terms of office on the board.

(3) If a person has served in one or more positions for 3 consecutive terms of office that person is not eligible to be again elected to a position on the board until one year has expired from the expiration of the person's last term of office.

(4) A region delegate holds office from the time the person is elected as a region delegate until the commencement of the next annual region meeting.

AR 23/99 s35;72/2010

Removal from office

36(1) Where a person is serving a term of office and that person ceases to be an eligible producer under this Plan, that person's term of office expires on that person's ceasing to be an eligible producer under this Plan.

(2) Where a person holds a position on the Commission and is absent from 3 consecutive meetings of the Commission without reasons that the Commission considers adequate, that person's position on the board is deemed to be vacant at the conclusion of the 3rd consecutive meeting from which that person was absent.

(3) Where a person holds a position on the region executive and is absent from 3 consecutive meetings of the region executive without

reasons that the region executive considers adequate, that person's position on the region executive is deemed to be vacant at the conclusion of the 3rd consecutive meeting from which that person was absent.

(4) Where,

- (a) in the opinion of the board, the president or vice-president of the Commission is no longer representing the interests of the producers of soft wheat, and
- (b) two-thirds of the directors vote in favour of removing the president or vice-president,

the board may declare the office of president or vice-president of the Commission, as the case may be, to be vacant.

AR 23/99 s36;72/2010

Filling of vacancies by appointment, etc.

37(1) Subject to section 43, if a vacancy occurs

- (a) in the position of
 - (i) a member of the region executive,
 - (ii) a director of the Commission representing a region, or
 - (iii) a region delegate,the board may
 - (iv) direct that a special region meeting be held within 90 days from the day that the vacancy occurred and that an election be held at that meeting to fill the vacant position, or
 - (v) direct the region executive to appoint a person to that position who is eligible to fill that position,
- or
- (b) in the position of president or vice-president of the Commission, the board may
 - (i) hold a special Commission meeting and conduct an election at that meeting to fill the vacant position, or
 - (ii) appoint a person to that vacant position who is eligible to fill that position.

(2) If the Council declares, other than under section 43, that an election is invalid, it may

- (a) direct that the position in respect of which the election is declared invalid be filled as if a vacancy had occurred in that position, or
- (b) direct that another election be held.

(3) Where a person in accordance with this section is appointed or elected to fill a vacancy, the term of office of that person

- (a) terminates at the conclusion of the next annual Commission meeting, and
- (b) is not considered to be a term of office for the purposes of section 35.

AR 23/99 s37;339/2003;72/2010

Part 3

Voting and Elections

Eligibility to vote at an annual meeting

38(1) In order to vote on any question put to a vote or in any election held

- (a) at an annual region meeting, a person must be an eligible producer, or
- (b) at an annual Commission meeting, a person must either hold a position on the board or be a region delegate.

(2) A person who holds a position on the board or is a region delegate is eligible to vote on any question put to a vote or in any election held at an annual Commission meeting if the person is present at the meeting at which the vote or election is held.

(3) A person who is eligible to vote under this Plan may vote once only on each matter notwithstanding that the person may manage or operate or own, lease or hold equity in 2 or more operations.

AR 23/99 s38;72/2010

Voters must be on current list

39 A person who is entitled to vote under this Plan shall not cast a vote under this Plan at an annual region meeting or an annual Commission meeting unless that person's name

- (a) appears on the current list of members, or

- (b) is added to the current list of members prior to that person's vote being taken or cast.

AR 23/99 s39;72/2010

Secret ballot

40 Voting on a motion shall be carried out by secret ballot when so requested by 3 or more persons entitled to vote at the meeting at which the vote is to be held.

Tie votes

41 Where a question is voted on under this Plan and there is a tie vote, the question is defeated.

Returning officer

42(1) The Commission shall appoint a returning officer for the purposes of and in connection with any election or vote held under this Plan at an annual Commission meeting or a special Commission meeting.

(2) The region executive shall appoint a returning officer for the purposes of and in connection with any election or vote held under this Plan at an annual region meeting or a special region meeting.

(3) The returning officer may appoint individuals as deputy returning officers to assist in the conduct of elections and votes under this Plan.

(4) The returning officer shall

- (a) in the case of an annual region meeting, compile and maintain a voters list of members who are entitled to vote at the meeting,
- (b) in the case of an annual Commission meeting, compile and maintain a voters list of the persons who hold positions on the board and the region delegates who are entitled to vote at the meeting,
- (c) ensure that a person does not cast a vote, except in accordance with this Plan, and
- (d) permit scrutiny of the actions of the returning officer and the deputy returning officers by a scrutineer in respect of the conduct of an election or a vote held under this Plan.

(5) There shall not be more than 3 scrutineers for any vote and, if requested by at least 5 persons entitled to vote at the meeting, the scrutineers shall be elected by those entitled to vote at the meeting.

(6) Unless otherwise directed by the Council, no person shall destroy any records or ballots in respect of a vote or election held under this Plan until 90 days have elapsed from the day on which the vote was taken.

AR 23/99 s42;72/2010

Controverted election

43(1) If a producer who is an eligible producer

- (a) questions
 - (i) the eligibility of a candidate,
 - (ii) the eligibility of a voter,
 - (iii) any matter relating to a ballot or the tabulation of ballots, or
 - (iv) any other irregularity with respect to the conduct of an election,

and

- (b) seeks to have the election declared invalid and the position declared vacant,

the producer shall, not later than 15 days after the day on which the election was held, apply in writing to the Council to have the election declared invalid and the position declared vacant.

(2) If, within the 15-day period referred to in subsection (1), the Council has not received an application under subsection (1), a person elected at that election is deemed to be duly elected.

(3) On receipt of an application under subsection (1), the Council shall consider the matter and may

- (a) declare the election to be proper and the position filled, if, in the opinion of the Council, there is no basis for the application,
- (b) declare the election to be proper and the position filled, notwithstanding that there is a basis for the application, if, in the opinion of the Council,
 - (i) the basis for the application did not materially affect the result of the election, and
 - (ii) the election was conducted substantially in accordance with this Plan and the Act,

or

- (c) declare the election to be void and the position vacant, if, in the opinion of the Council, there is a basis for the application and the basis is sufficient to, or did, affect the result of the election.

(4) Notwithstanding that an election is declared void and a position is declared vacant under subsection (3)(c), the term of office of the position declared vacant is nevertheless deemed to have commenced on the day that the voided election was held.

(5) If the Council declares an election to be void and the position vacant, the Council may

- (a) in the case of an election held
 - (i) at an annual region meeting or a special region meeting, order that, within the time that the Council considers proper, a special region meeting be held and an election conducted at that special meeting to fill the vacant position, or
 - (ii) at an annual Commission meeting or a special Commission meeting, order that, within the time that the Council considers proper, a special Commission meeting be held and an election conducted at that special meeting to fill the vacant position,

or

- (b) appoint from among the persons who are eligible to be elected to the position, an individual to fill the vacant position.

(6) Where a person fills a position under subsection (5)

- (a) that person is to serve for the unexpired portion of the term, and
- (b) if the unexpired portion of the term is less than 12 months, that term of office is not considered to be a term of office for the purposes of section 35.

AR 23/99 s43;339/2003;72/2010

Part 4 Transitional Provision, Review and Repeal

Transitional re directors

44 The directors of the Commission who held office immediately before the coming into force of this Regulation shall continue to hold office on the board until their terms of office expire, or their successors to the positions are sooner elected or they are replaced under this Regulation.

Review

45 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before May 31, 2015.

AR 23/99 s45;339/2003;72/2010

Repeal

46 The *Alberta Soft Wheat Producers Plan Regulation* (AR 226/90) is repealed.

Schedule

Regions

Region 1

Region 1 comprises the area that is included within the following boundaries:

Western boundary: the Alberta-British Columbia border

Southern boundary: the 49th Parallel

Eastern boundary: the Alberta-Saskatchewan border

Northern boundary: the Old Man River and the South Saskatchewan River

Region 2

Region 2 comprises the area that is included within the following boundaries:

Western boundary: the Alberta-British Columbia border

Southern boundary: the Old Man River and the South Saskatchewan River

Eastern boundary: the Alberta-Saskatchewan border

Northern boundary: the Red Deer River

Region 3

Region 3 comprises the area that is included within the following boundaries:

Western boundary: the Alberta-British Columbia border

Southern boundary: the Red Deer River

Eastern boundary: the Alberta-Saskatchewan border
Northern boundary: the Alberta-Northwest Territories border
AR 23/99 Sched.;339/2003;72/2010