



Province of Alberta

## MARKETING OF AGRICULTURAL PRODUCTS ACT

# TURKEY PRODUCERS PLAN REGULATION

### **Alberta Regulation 259/1997**

With amendments up to and including Alberta Regulation 100/2013

### Office Consolidation

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(Consolidated up to 100/2013)

**ALBERTA REGULATION 259/97**

**Marketing of Agricultural Products Act**

**TURKEY PRODUCERS PLAN REGULATION**

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**Interpretation**

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

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (a.1) “assets” means economic resources controlled by the body as a result of past transactions and from which future economic benefits may be obtained;
- (a.2) “auditor” means a person registered under the *Regulated Accounting Profession Act* or a firm or partnership of those persons;

- (b) “base quota” means the quota for any category of turkey that was originally allocated to a producer on that producer’s first application to the Board for an allocation of quota, as amended from year to year;
- (c) “Board” means the Board known as the Alberta Turkey Producers referred to in section 7;
- (d) “category” means any category of turkey referred to in section 8(4);
- (e) “consumer” means a person who purchases turkey for consumption and not for resale;
- (f) “Council” means the Alberta Agricultural Products Marketing Council;
- (g) “family” means, in respect of a person, that person’s husband, wife, adult interdependent partner, father, mother, son, daughter, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, grandfather and grandmother;
- (h) “hatcheryman” means a person who holds a licence authorizing that person to distribute, import, export and sell turkey poults to a producer;
- (h.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;
- (i) “period” means a subset of continuous months based on a quota year as established by the Board;
- (j) “periodic production” means marketing of quota of a specified category of turkeys in any of the periods established by the Board;
- (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);
  - (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) “Plan” means the Turkey Producers Plan referred to in section 3;
  - (m) “processor” means a person who holds a licence authorizing him to process turkeys;
  - (n) “producer” means a person who
    - (i) holds a licence authorizing that person to produce turkeys,
    - (ii) has been allocated a quota or a permit, or both or alternatively is a lessee pursuant to the provisions of the regulations, during a quota year or a period, and
    - (iii) owns and operates a production facility in Alberta or leases and operates a production facility in Alberta on a basis whereby he receives the revenue from the production facilities;
  - (o) “production facility” means the buildings and improvements in which turkeys are produced and the land on which those buildings and improvements are located;
  - (p) “quota” means the maximum live weight in kilograms of any category of turkey that a producer is authorized to market in a quota year or a period and is
    - (i) the product of the base quota of that category of turkey allocated to the producer and the percentage established by the Board for that quota year or period,
    - (ii) plus any further production authorized by the Board for that quota year or period, and
    - (iii) less any reduction in production as ordered by the Board for that quota year or period;
  - (p.1) “quota year” means a 12-month period of time established annually by the Board;
  - (q) “regulated product” means turkeys;
  - (r) “turkey” means any turkey, male or female, live or slaughtered, of any size and includes any part of any turkey.
- (2) Any reference in this Plan**
- (a) to a class, variety, size, grade or kind of turkeys includes a reference to a category of turkeys referred to in section 8,

- (b) to the amount or number of turkeys includes a reference to the weight of turkeys, and
- (c) to a representative of a producer is a reference to a representative of a producer appointed under section 26.

AR 259/97 s1;109/2003;28/2011;100/2013

#### **Designation of agricultural product**

- 2** Turkeys are hereby designated as an agricultural product for the purposes of the Act.

## **Part 1 General Operation of Plan**

### **Division 1 Plan**

#### **Plan continued**

- 3** The Turkey Growers Marketing Plan referred to in Alberta Regulation 375/88 is hereby amended and continued under this Regulation with the name “Turkey Producers Plan”.

AR 259/97 s3;100/2013

#### **Termination of Plan**

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

AR 259/97 s4;207/2002

#### **Application of Plan**

- 5(1)** This Plan applies

- (a) to all of Alberta, and
- (b) to all persons who produce, sell, process or market turkeys and to all kinds and grades of turkeys.

- (2)** Notwithstanding subsection (1), this Plan does not apply to a person who produces turkeys if

- (a) the person is ordinarily resident on the land on which the production facility in which the turkeys are produced is situated,
- (b) the person produces

- (i) fewer than 90 turkeys in a quota year on the land on which that person is ordinarily resident, or
  - (ii) a minimum of 90 turkeys and a maximum of 300 turkeys in a quota year on the land on which that person is ordinarily resident and the producer's information is registered with the Board at the time the turkeys are purchased,
- and
- (c) the turkeys are
    - (i) consumed or intended to be consumed by the person or that person's family, including that person's adult interdependent partner, or
    - (ii) sold or intended to be sold to consumers by the person
      - (A) from the land referred to in clause (a),
      - (B) from land that is adjacent to the land referred to in clause (a), or
      - (C) from a stall at a public market.

AR 259/97 s5;109/2003;100/2013

**Purpose and intent of Plan**

**6** The purpose and intent of this Plan is to provide for the effective promotion, control and regulation, in any and all respects and to the extent of the powers vested in the Board, of the production, marketing and processing of turkeys in Alberta including the prohibition in whole or in part of processing or marketing of turkeys in Alberta and, without limiting the generality of the foregoing,

- (a) to maintain a fair and stabilized price for turkeys,
- (b) to develop and maintain the orderly marketing of turkeys,
- (c) to provide a uniform, high quality of turkeys for the market,
- (d) to maintain adequate advertising and promotion of turkeys,
- (d.1) to fund, initiate, conduct or carry on research and development and studies with respect to the production, handling, marketing and processing of the regulated

product, including research and studies concerning the development and use of the regulated product;

- (e) to ensure a continuous year-round supply of turkeys for the trade and consumer market, and
- (f) to work with marketing boards having similar objectives that may be established in other provinces.

AR 259/97 s6;28/2011

## **Division 2 Administration of Plan by the Board**

### **Board continued**

**7** The board known as the “Alberta Turkey Growers Marketing Board” is hereby continued with the name “Alberta Turkey Producers”.

### **Functions of Board**

**8(1)** The Board is, subject to the Act, responsible for the operation, regulation, supervision and enforcement of this Plan.

#### **(2) The Board**

##### **(a) shall**

(i) open one or more bank accounts,

(ii) designate those officers, employees and other persons as necessary to sign cheques and transact the Board’s business with its bank or trust company or at Alberta Treasury Branches or another depository, and

(iii) generally do all things incidental to or in connection with the transaction of the Board’s business with its bank or trust company or at Alberta Treasury Branches or another depository;

(a.1) when investing its assets shall 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;

(a.2) shall establish policies respecting the management of its assets as required by the *Operation of Boards and Commissions Regulation* (AR 26/99);

- (b) shall
    - (i) cause the books and records to be maintained that may from time to time be required under the Act or by virtue of any order of the Council or as may be determined by the Board, and
    - (ii) open the books and records to inspection by any licensed producer at the offices of the Board on 5 business days' notice;
  - (c) shall
    - (i) maintain the books of accounts, receipts, ledgers, journals, operating statements and financial statements that may be required by the Act or any order of the Council or as may be determined by the Board, and
    - (ii) open the books of accounts and financial records to inspection by any licensed producer at any time on 5 business days' notice to the Board;
  - (d) shall maintain an office and notify each licensed producer, licensed processor, licensed hatcheryman and the Council of the location of the office;
  - (e) may issue any general orders governing its internal operations as it may from time to time determine, subject to compliance with the Act, the regulations and any order of the Council;
  - (f) may appoint officers and agents, prescribe their duties and fix and provide for their remuneration;
  - (g) may retain earnings and revenues from year to year to finance the purposes of the Plan.
- (3)** In carrying out the operation of the Plan, the Board may
- (a) issue or renew a licence;
  - (b) refuse to issue or renew a licence;
  - (c) suspend or cancel a licence;
  - (d) issue a permit;
  - (e) allocate, transfer, reduce or cancel a quota or a base quota;

- (f) determine the quota that may be marketed by producers in a quota year or a period and provide for periodic production;
  - (g) set minimum prices to be paid to producers for any category of turkey;
  - (h) collect service charges licence fees and levies;
  - (i) ensure a supply of turkeys in Alberta.
- (4)** The Board may classify turkeys into categories and in so doing may establish the following categories:
- (a) light breed turkeys being turkeys of a weight or within a range of weight as determined by the Board;
  - (b) heavy breed turkeys being turkeys of a weight or within a range of weight as determined by the Board;
  - (c) mature turkeys being
    - (i) any female turkey that has laid eggs, or
    - (ii) any male turkey that has produced semen,and that is not less than 28 weeks of age at the time of slaughter.
- (5)** Notwithstanding subsection (4), the Board may delete or add to the number or type of categories of turkeys based on any criteria that the Board considers appropriate.

AR 259/97 s8;207/2002;81/2008;28/2011;100/2013

#### **Regulations to operate Plan**

- 9(1)** For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 26 of the Act, to make regulations
- (a) requiring producers engaged in the production or marketing, or both, of turkeys to register their names and addresses with the Board;
  - (b) requiring any person who produces, markets or processes turkeys to furnish to the Board any information or record relating to the production, marketing or processing of turkeys that the Board considers necessary;
  - (c) requiring persons to be licensed under this Plan before they become engaged in the production, marketing and

processing, or any one or more of those functions, of turkeys;

- (d) prohibiting persons from engaging in the production, marketing or processing, as the case may be, of turkeys except under the authority of a licence issued under this Plan;
- (e) governing the issuance, suspension or cancellation of a licence issued under this Plan;
- (f) providing for
  - (i) the assessment, charging and collection of service charges and licence fees, as the case may be, from producers from time to time for the purposes of this Plan, and
  - (ii) the taking of legal action to enforce payment of the service charges or licence fees, as the case may be;
- (g) requiring any person who receives turkeys from a producer
  - (i) to deduct from the money payable to the producer any service charges, licence fees or levies, as the case may be, payable by the producer to the Board, and
  - (ii) to forward the amount deducted to the Board;
- (h) providing for the use of any class of service charges, licence fees, levies or other money payable to or received by the Board for the purpose of paying its expenses and administering this Plan and the regulations made by the Board;
- (i) providing for the payment to a Canada Board of money that is payable under a Canada Act.

**(2)** For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 27(1) of the Act, to make regulations

- (a) requiring that the production or marketing, or both, of turkeys be conducted pursuant to a quota;
- (b) governing
  - (i) the fixing and allotting of quotas,
  - (ii) the increase or reduction of quotas,

- (iii) the cancelling of quotas, and
- (iv) the refusal to fix and allot quotas,  
to producers for the production or marketing, or both, of turkeys on any basis the Board considers appropriate;
- (c) governing the transferability or non-transferability of quotas and prescribing the conditions and procedures applicable to the transfer of quotas, if any, that the Board considers appropriate;
- (d) establishing
  - (i) a formula for determining the amount or number of turkeys deemed to have been produced or marketed by a producer, and
  - (ii) the period of time in respect of which the formula is to be applied,  
for the purposes of determining the amount of turkeys produced or marketed by a producer during a period of time;
- (e) providing for
  - (i) the assessment, charging and collection of a levy from any producer whose production or marketing, or both, of turkeys is in excess of the quota that has been fixed and allotted to that producer, and
  - (ii) the taking of legal action to enforce payment of the levy;
- (f) requiring any person who provides turkeys to a producer under this Plan to furnish to the Board any information requested by the Board;
- (g) determining the quantity of each class, variety, size, grade and kind of turkeys that shall be produced or marketed, or both, by each producer;
- (h) directing, controlling or prohibiting, as the case may be, the production or marketing, or both, of turkeys or any class, variety, size, grade or kind of turkeys in such manner as the Board considers appropriate;
- (i) regulating and controlling the production or marketing, or both, of turkeys, including the times and places at which turkeys may be produced or marketed;

- (j) determining from time to time the minimum price or prices that shall be paid to producers for turkeys or any class, variety, grade, size or kind of turkeys and determining different prices for different parts of Alberta;
  - (k) governing
    - (i) the furnishing of security or proof of financial responsibility by any person engaged in the production, marketing or processing of turkeys, and
    - (ii) the administration and disposition of any money or securities so furnished;
  - (l) prohibiting a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of turkeys from producing or marketing, as the case may be, any turkeys;
  - (m) prohibiting a producer to whom a quota has been fixed and allotted for the production or marketing, or both, of turkeys from producing or marketing, as the case may be, any turkeys in excess of that quota;
  - (n) prohibiting any person from purchasing or otherwise acquiring any turkeys from a producer that are in excess of the quota that has been fixed and allotted to the producer for the production or marketing, or both, of turkeys;
  - (o) prohibiting any person from purchasing or otherwise acquiring any turkeys from a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of turkeys.
- (3)** For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 27(2) of the Act, to make regulations
- (a) governing any agricultural product that is not the regulated product in the same manner as if that agricultural product was the regulated product under this Plan;
  - (b) governing, with respect to any agricultural product that is not the regulated product, the producers of the regulated product under this Plan in the same manner as if that agricultural product was the regulated product under this Plan;

- (c) establishing and governing a formula for determining the amount or number of the regulated product produced or deemed to have been produced from any agricultural product that is not the regulated product.

#### **Financing of Plan**

**10** In accordance with the regulations, this Plan must be financed by the charging and collecting of service charges, licence fees and levies from producers and by any other money payable to or received or accrued by the Board.

AR 259/97 s10;207/2002;100/2013

#### **Remuneration**

**11** The remuneration to be paid to the chair of the Board and to the other members of the Board must be fixed by the licensed producers at an annual meeting of the Board or at any special general meeting of the licensed producers.

AR 259/97 s11;207/2002

#### **Appointment of an auditor**

**12** The auditor for the Board must be appointed by the licensed producers at the annual meeting or at any special general meeting of the licensed producers.

AR 259/97 s12;207/2002

#### **Interprovincial matters**

- 13** In accordance with section 50 of the Act, the Board may,
- (a) with respect to the production or marketing, or both, of the regulated product, be authorized to perform any function or duty and exercise any power imposed or conferred on the Board by or under a Canada Act, and
  - (b) with respect to any function or duty that the Council has authorized the Board to carry out under the Act or the regulations, be authorized to delegate that function or duty to a Canada Board.

#### **Indemnification funds**

**14(1)** The Board may establish one or more funds under section 34 or 35 of the Act.

**(2)** In order to finance the funds, the Board may raise amounts in accordance with sections 34 and 35 of the Act.

## **Part 2 Governance of Plan**

### **Division 1 Board**

#### **Members of the Board**

**15** The Board consists of 5 members.

AR 259/97 s15;207/2002

#### **Chair, etc.**

**16** The members of the Board shall, at the first Board meeting following an election of members to the Board, elect from the members of the Board

(a) one person to serve as chair of the Board, and

(b) one person to serve as vice-chair of the Board.

AR 259/97 s16;207/2002

#### **Quorum at Board meetings**

**17** A quorum at any meeting of the Board is 3 members of the Board.

#### **Term of office**

**18(1)** The term of office of a person who has been elected to the Board is 3 years.

**(2)** Notwithstanding subsection (1), a member of the Board holds office until that member's successor is elected or otherwise chosen.

**(3)** A member of the Board may serve not more than 3 consecutive terms.

**(4)** Repealed AR 15/2011 s2.

**(5)** Service on the Board pursuant to section 19 or 37(6)(b) is not considered part of a term for the purposes of this section.

**(6)** Notwithstanding subsection (3), an eligible producer who was a director is once again eligible to be a director if one year has elapsed from the conclusion of that eligible producer's last term of office as a director.

AR 259/97 s18;22/2001;207/2002;81/2008;15/2011

**Vacancy**

**19(1)** If a vacancy occurs on the Board, the Board may, with the approval of the Council, appoint from among the persons who are eligible to be elected to the Board a person to act as a member until the date of the next annual general meeting of the producers.

**(2)** At the next annual producer meeting following the appointment of a person under subsection (1), the position must be filled by an election held in accordance with this Plan for the unexpired portion of the term.

AR 259/97 s19;207/2002

## **Division 2 General Meetings of Producers**

**Annual general meetings**

**20(1)** The Board shall hold an annual general meeting of the producers once in each calendar year.

**(2)** Not more than 15 months may elapse between annual general meetings of the producers.

**Special general meetings**

**21** Special general meetings of the producers

- (a) may be called by the Board at any time, or
- (b) must be called by the Board on the written request of the Council or of 8 or more producers.

AR 259/97 s21;207/2002;100/2013

**Time, date and place of general meetings**

**22** Subject to sections 20 and 21, the time, date and location of an annual general meeting or a special general meeting of producers must be fixed by the Board.

AR 259/97 s22;207/2002

**Quorum at general meetings**

**23** A quorum at any annual or special general meeting of the producers is 14 producers.

AR 259/97 s23;100/2013

**Notification of general meetings**

**24(1)** Where an annual general meeting or a special general meeting of producers is to be held, the Board shall give 14 days'

notice of the meeting to each producer who is entitled to vote under this Plan

- (a) by ordinary mail to the last known address of the producer as shown on the records of the Board,
- (b) by facsimile, e-mail or other electronic means to be received by the producer at the last fax number, e-mail address or other electronic receiving number of the producer shown on the records of the Board, or
- (c) in the newsletter published by the Board.

**(2)** For the purposes of subsection (1), the 14-day period for giving notice is exclusive of the day on which the notice is mailed and exclusive of the day for which the notice is given.

**(3)** A notice given under this section must set out

- (a) the time, place, date and the purpose of the meeting, and
- (b) where special or extraordinary business is to be considered at the meeting, the general description of that business.

AR 259/97 s24;100/2013

### **Division 3 Eligibility, Voting and Elections**

#### **Producers who are individuals**

**25(1)** A producer who is an individual may, subject to this Plan,

- (a) make representations on any matter pertaining to this Plan or the operation of the Board,
- (b) attend meetings held under this Plan,
- (c) vote on any matter under this Plan,
- (d) vote at an election under this Plan, and
- (e) hold office under this Plan.

**(2)** Where a person is an agent of a producer who is an individual, that agent is not eligible under this Plan to do the following on behalf of that producer:

- (a) vote on any matter under this Plan;
- (b) vote at an election under this Plan;

(c) hold office under this Plan.

**(3)** An individual who is a producer shall not in that individual's capacity as a producer vote in an election or on any matter under this Plan unless

(a) the individual's name appears on the current voters list, or

(b) the individual makes a statutory declaration stating that the individual

(i) is a producer, and

(ii) has not previously voted in the election or on the matter in respect of which the individual wishes to cast a vote.

**(4)** Notwithstanding subsection (1), if an individual is both

(a) a producer in that individual's own capacity, and

(b) appointed under section 26 as a representative of a producer that is not an individual,

that individual, during the time that the individual is a representative of a producer under section 26, shall not

(c) vote on any matter under this Plan,

(d) vote at an election under this Plan, or

(e) hold office under this Plan,

in that individual's own capacity as a producer and may only carry out those functions as the representative of the producer appointed under section 26.

#### **Producers that are not individuals**

**26(1)** A producer that is not an individual must appoint an individual to be the representative of the producer, and the appointed individual may do the following on behalf of that producer:

(a) make representations on any matter pertaining to this Plan or the operation of the Board;

(b) attend meetings held under this Plan;

(c) vote on any matter under this Plan;

(d) vote at an election under this Plan;

- (e) hold office under this Plan.
- (2)** For the purpose of subsection (1), if a producer is
- (a) a corporation, it must appoint an individual who is a director, shareholder, member, officer or employee of the corporation as its representative,
  - (b) a partnership, it must appoint an individual who is a partner or employee of the partnership as its representative, or
  - (c) an organization that is not a corporation or partnership, it must appoint a member, officer or employee of the organization as its representative.
- (3)** An appointment of a representative under this section must
- (a) be in writing and set forth at least the name of the representative of the producer, and
  - (b) be filed with the Board.
- (4)** A representative of a producer shall not cast a vote under this Plan unless
- (a) the producer's name appears on the current voters list, and
  - (b) that representative, before the vote is cast, provides a copy of the document filed under subsection (3) or of the statutory declaration under subsection (6).
- (5)** If the requirements of subsection (3) or (4)(a) have not been met, an individual who is the representative of the producer may nevertheless cast a vote under this Plan if that individual, before the vote is cast, makes a statutory declaration in writing stating that the individual
- (a) is the representative of the producer, and
  - (b) has not previously voted in the election or on the matter in respect of which the vote is to be taken.
- (6)** The statutory declaration referred to in subsection (5) must,
- (a) in the case of an election, be provided to or made before the returning officer or deputy returning officer, or
  - (b) in the case of a vote other than an election, be provided to or made before a director or officer of the Board.

(7) An individual may not be a representative under this section for more than one producer at any one time.

(8) A representative is not eligible to hold office under this Plan on behalf of the producer until the representative's appointment is filed in accordance with subsection (3).

(9) A producer that is a person other than an individual shall not carry out the functions referred to in subsection (1) except in accordance with this section.

AR 259/97 s26;207/2002

### **Voting**

**27(1)** A person shall not vote under this Plan except in accordance with this Plan.

(2) A producer who is eligible to vote may

- (a) vote once on each matter, and
- (b) in the case of an election of a member of the Board, vote for any number of candidates not exceeding the number of members to be elected to the Board at that meeting,

notwithstanding that the producer may manage or operate or own, lease or hold equity in 2 or more operations that are registered separately with the Board.

### **Voting to take place at meetings**

**28** Where a producer meets the requirements of this Plan in respect of voting, that producer may cast a vote

- (a) in an election of a member of the Board, or
- (b) on any question put to a vote,

if the producer is present at the meeting at which the election or vote is being held.

### **Voters list**

**29(1)** When an election to the Board is to be conducted, the returning officer shall, not less than 30 days before the day on which the election is to be conducted, prepare a list of the producers eligible to vote in the election.

(2) The voters list must be made available to any producer or producer's representative for inspection before, during and after an election.

AR 259/97 s29;207/2002

**Eligibility re Board member**

**30(1)** A person is eligible to be elected to the Board if that person

- (a) is a producer,
- (b) has been nominated in accordance with section 31, and
- (c) is not a processor of turkeys, a designated representative of a processor of turkeys or a member of the board of directors of an organization that processes turkeys.

**(2)** A member of the Board is disqualified from continuing to act as a member if that person

- (a) ceases to be a producer,
- (b) has been found to be of unsound mind by a court in Canada,
- (c) is a bankrupt, or
- (d) is absent for 3 consecutive meetings of the Board, without the approval of the Board.

**(3)** For the purposes of subsection (2)(d), the Board's approval may be given before or after the absence occurs.

**(4)** A person who is ineligible to serve as a member of the Board under section 18(3) becomes eligible to again serve on the Board as if that person had never been a member of the Board one year after the date on which that person's last term expired.

**(5)** Notwithstanding subsection (4), a person serving an additional term under section 18(4) becomes eligible to again serve on the Board as if that person had never been a member of the Board one year after the date on which that person's last term expired.

AR 259/97 s30;22/2001;81/2008

**Nominations**

**31(1)** Nominations for candidates for election as members of the Board must

- (a) be signed by at least 2 producers or producers' representatives and by the nominee, and
- (b) be delivered to the returning officer before the beginning of the meeting at which the election is to be held.

**(2)** Repealed AR 100/2013 s11.

AR 259/97 s31;207/2002;100/2013

**Elections**

**32** Elections to the Board must be conducted

- (a) at the annual general meeting of producers, or
- (b) at a special general meeting of producers, where the Council directs under section 37 that an election be held.

AR 259/97 s32;207/2002

**Election by acclamation**

**33** If at the time that an election is to be conducted the number of nominations received by the returning officer is equal to or is less than the number of positions on the Board that are to be filled by that election, those persons nominated must be declared to be elected by acclamation.

AR 259/97 s33;207/2002

**Tie votes**

**33.1(1)** If there are more than 2 nominations for the position and a tie vote occurs between 2 or more of the candidates who received the largest number of votes, the candidates with the smallest number of votes are eliminated and another election for the position must be immediately held among the tied candidates.

**(2)** If there are only 2 nominations for the position and a tie vote occurs, the returning officer must immediately select, by draw, the candidate for the position and that person is deemed to have been elected to the position.

AR 207/2002 s12

**Returning officer**

**34(1)** The Board shall appoint a returning officer for elections and votes taken under this Plan.

**(2)** The returning officer may appoint persons as deputy returning officers to assist in the conduct of elections and votes taken under this Plan.

**Duties of returning officer**

**35(1)** The returning officer is responsible for all administrative procedures relating to the conduct of an election or vote taken under this Plan and shall

- (a) prepare the voters list,

- (b) ensure that each person who votes in an election is on the voters list or has signed a declaration pursuant to sections 25(3) or 26(5), and
- (c) permit scrutiny by any scrutineers appointed by candidates of all the actions of the returning officer and deputy returning officers.

(2) Unless otherwise directed by Council, neither the returning officer nor any other person shall destroy any records or ballots in respect of a vote or election held under this Plan until 60 days have elapsed from the day the vote was taken.

#### **Invalid election re attendance at meeting**

**36(1)** If an election is held under this Plan and there is in attendance at the meeting at which the election is held an insufficient number of persons who are eligible to vote at the election,

- (a) the election is void, and
- (b) the position for which the election was held is vacant.

(2) Notwithstanding that a position is vacant pursuant to subsection (1), the term of office of the position is deemed to have commenced as if a person had been elected to the position.

(3) Where a position is vacant pursuant to this section, the Board may, with the approval of the Council, appoint a person who is eligible to be elected to the Board as a member of the Board until the next annual producer meeting, at which time an election must be held for a member to serve the balance of the term in accordance with this Plan.

AR 259/97 s36;207/2002

#### **Controverted election**

**37(1)** If a 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 30 days after the day of the election, apply in writing to the Council to have the election declared invalid and the position declared vacant.

**(2)** If, within 30 days after the day of an election, the Council has not received an application under subsection (1), a person elected at that election is deemed to be duly elected.

**(3)** The Council shall not consider an application under subsection (1) that is not received by the Council within 30 days after the day of the election.

**(4)** 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.

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

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

- (a) order that within the time that Council considers proper a special producer meeting be held and an election conducted to fill the vacant position, or

(b) have the Board appoint, from among the persons who are eligible to be elected to the position, a person to fill the vacant position.

(7) A person elected under subsection (6)(a) holds office for the unexpired portion of the term.

(8) A person appointed under subsection (6)(b) holds office until the next annual producer meeting following the appointment, at which time the person ceases to hold office and an election must be held to fill the office for the unexpired portion of the term.

AR 259/97 s37;207/2002

### **Part 3 Review and Repeal**

**38** Repealed AR 100/2013 s12.

**38.1** Repealed AR 81/2008 s5.

#### **Review**

**39** In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before September 30, 2018.

AR 259/97 s39;207/2002;81/2008;100/2013

#### **Repeal**

**40** Alberta Regulation 375/88 is repealed.





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