



Province of Alberta

## MARKETING OF AGRICULTURAL PRODUCTS ACT

# **ALBERTA BARLEY PLAN REGULATION**

### **Alberta Regulation 111/1999**

With amendments up to and including Alberta Regulation 5/2014

#### Office Consolidation

© Published by Alberta Queen's Printer

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(Consolidated up to 5/2014)

**ALBERTA REGULATION 111/99**

**Marketing of Agricultural Products Act**

**ALBERTA BARLEY PLAN REGULATION**

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#### **Definitions**

1 In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (b) “annual Commission meeting” means an annual general meeting of the directors and the delegates;
- (c) “annual region meeting” means an annual general meeting of the eligible producers who carry out production of the regulated product within the region;
- (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) “barley” means any grain that
  - (i) is classified as *HORDEUM VULGARE L.*, and
  - (ii) is identified as the seed or grain of a cereal grass grown in Alberta and used for human or animal consumption, for malt, for commercial purposes or for seed;
- (e) “board” means the board of directors of the Commission;
- (f) “Commission” means the Alberta Barley Commission;
- (g) “Council” means the Alberta Agricultural Products Marketing Council;

- (h) “crop year” means a 12-month period commencing on August 1 and terminating on the following July 31;
- (i) “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, food processors, feed manufacturers and livestock feeders, and
  - (ii) persons who acquire regulated product from the producer for sale on the producer’s behalf;
- (j) “delegates” means the delegates of the Commission;
- (k) “directors” means the directors of the Commission;
- (l) “eligible producer” means a producer who qualifies as an eligible producer under section 17;
- (l.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;
- (m) “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;
- (n) “official Commission newsletter” means the newsletter that is published by the Commission;
- (o) “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);

- (p) “producer” means a person who
- (i) grows barley for sale on one or more parcels of land in Alberta, or
  - (ii) is entitled to a share of the barley grown on any land in Alberta pursuant to a crop share arrangement;
- (q) “regulated product” means barley;
- (r) “special Commission meeting” means a special general meeting
- (i) of the directors and the delegates, and
  - (ii) where directed by the board, of the eligible producers.

AR 111/99 s1;28/2011

**Designation of agricultural product**

**2** Barley 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 Barley Plan established under the *Alberta Barley Plan Regulation* (AR 216/91) is hereby amended, revised and continued under this Regulation with the name “Alberta Barley Plan”.

**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.

**Application of Plan**

**5** This Plan applies

- (a) to all of Alberta,

- (b) to all producers in Alberta who produce or market the regulated product, and
- (c) for the purposes of sections 9(a), (b), (c) and (f) and 12,
  - (i) to dealers, and
  - (ii) to any persons who are not producers or dealers and who market or process the regulated product.

#### **Purposes of Plan**

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

- (a) to initiate, conduct and carry on research 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;
- (b) to assist, educate and inform producers, dealers and processors in developing and improving methods regarding the production, processing and marketing of the regulated product;
- (c) to initiate and carry out advertising programs, sales promotion programs and consumer education programs to expand the market awareness and demand for the regulated product, both within Alberta and in export markets;
- (d) to assist generally in the development and promotion of the barley industry in Alberta, including the development and promotion of export markets for the regulated product;
- (e) to advise governments on matters concerning the barley industry;
- (f) to co-operate with the Government of Canada and the Government of Alberta with respect to the maintenance of the quality of the regulated product;
- (g) to co-operate with co-operatives, corporations, grower associations, marketing commissions and marketing boards located in Alberta and other provinces of Canada that have objectives similar to those of the Commission;
- (h) to participate in programs under the *Advance Payments for Crops Act* (Canada);

- (i) to participate in and initiate programs pertaining to soil conservation, crop rotation, pesticide use, soil degradation and similar matters;
  - (j) generally to initiate and carry out projects and programs to stimulate, increase or improve the production or marketing, or both, of the regulated product within Alberta.
- (2) Under this Plan neither the production nor the marketing of the regulated product is to be controlled or regulated.

## **Division 2 Operation of Plan by Commission**

### **Commission continued**

- 7 The Alberta Barley Commission is hereby continued.

### **Functions of the Commission**

- 8 The Commission
- (a) is, subject to the Act, responsible for the operation, regulation, supervision and enforcement of this Plan;
  - (b) must
    - (i) open and maintain one or more accounts in a bank, trust company, credit union, treasury branch or other depository,
    - (ii) designate those officers, employees and other persons as are necessary to sign cheques and other negotiable instruments and to transact the Commission's business with its bank, trust company, credit union, treasury branch or other depository, and
    - (iii) generally do all things incidental to or in connection with the transaction of the business of the Commission 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) must maintain such books and records, including financial records,
  - (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 board;
- (e) must maintain an office, the location of which, at all times, is to be made known to the Council and to each eligible producer and dealer;
- (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, elect or appoint individuals to sit as members of and contribute funds to any task force, committee, group, organization or person when that membership, election, appointment or contribution will, in the opinion of the board, further the purposes of this Plan and the objects of the Commission;
- (i) may, in accordance with section 50 of the Act, be authorized to perform any function or duty and exercise any power imposed or conferred on the Commission by or under the *Agricultural Marketing Programs Act* (Canada) or any Canada Act;
- (j) subject to section 11, to finance the purposes of the Plan, may retain earnings and revenues from year to year.

AR 111/99 s8;28/2011

**Operation of Plan re regulations**

**9** For the purposes of enabling the Commission to operate this 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 the marketing and processing, or either of those functions, of the regulated product;
- (c) governing the issuance, suspension or cancellation of a licence issued under this Plan;
- (d) providing for
  - (i) the assessment, charging and collection of service charges from producers from time to time for the purposes of the Plan, and
  - (ii) the taking of legal action to enforce payment of the service charges;
- (e) respecting the circumstances, if any, under which a service charge may be refunded to a producer;
- (f) requiring any person who receives the regulated product from a producer
  - (i) to deduct from the money payable to the producer any service charges payable by the producer to the Commission, and
  - (ii) to forward the amount deducted to the Commission;
- (g) providing for the use of any class of service charges or other money payable to or received by the Commission for the purpose of paying its expenses and administering this Plan and the regulations made by the Commission.

AR 111/99 s9;5/2014

**Financing of the Plan**

**10** In accordance with the regulations,

- (a) this Plan is to be financed

- (i) by the charging and collection of service charges from producers, and
  - (ii) by any other money payable to or received or accrued by the Commission;
- (b) 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 by a majority of the directors and delegates present at an annual Commission meeting or a special Commission meeting.

**Service charges refundable**

**11(1)** In accordance with the regulations,

- (a) the service charge is refundable to a producer on request of the producer;
- (b) requests for refunds must be received by the Commission at its head office within 6 months from the end of the month in which the deduction of the service charge was made;
- (c) any request for a refund that is not received by the Commission within the time period specified under clause (b) shall not be considered by the Commission and the producer will not be entitled to a refund in respect of the service charge in question except in a case where the Commission considers that extenuating circumstances exist;
- (d) the Commission must refund the service charge to the producer within 120 days from the day that the request for a refund of the service charge is received, if the request complies with the regulations.

**(2)** In the event that within one crop year

- (a) the eligible producers requesting a refund of the service charges comprise more than 35% of the existing eligible producers, and
- (b) those eligible 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 is to be subject to the approval of a majority of producers at a plebiscite to be held under the direction of the Council pursuant to the Act.

(3) The Commission must, within 150 days following the end of a crop year, report to the Council the refunds made under this section for that crop year.

**Collection of service charges**

**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 behalfmust deduct from any proceeds payable to or on behalf of the producer the amount of the service charge;
- (b) any person who receives proceeds on behalf of the producer in respect of the sale by the producer of regulated product must deduct from the proceeds payable to or on behalf of the producer the amount of the service charge;
- (c) any person who collects a service charge must pay the amount of the service charge to the Commission;
- (d) all persons required under this Plan to collect and pay to the Commission the service charge payable by a producer must
  - (i) pay the service charge to the Commission,
  - (ii) provide to the producer in respect of whom the deduction was made a statement, cheque stub or other document that sets forth,
    - (A) the amount of the service charge that was deducted,
    - (B) the name and address of the person making the deduction, and
    - (C) the date of the transaction in respect of which the deduction was made,and
  - (iii) provide to the Commission a report setting out in respect of each producer

- (A) the amount of regulated product purchased or acquired from the producer,
- (B) the amount of service charge being paid on behalf of the producer, and
- (C) the name and address of the producer from whom regulated product was purchased or acquired and the date of each such transaction in respect of which a deduction was made.

AR 111/99 s12;65/2004

**Indemnification fund, etc.**

**13** The Commission shall not establish a fund under section 34 or 35 of the Act.

**Auditor**

**14** The auditor for the Commission is to be appointed from time to time at an annual Commission meeting or a special Commission meeting.

**Industry advisory committee**

**15** In accordance with section 32 of the Act, the Commission may establish an industry advisory committee.

**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.

## **Part 2 Governance of Plan**

### **Division 1 Eligible Producers**

**Eligible producers**

- 17** For the purposes of this Plan,
- (a) any producer who has paid a service charge under this Plan in a crop year is an eligible producer for that crop year;
  - (b) the Commission must maintain a list of eligible producers;

- (c) all producers who can be identified by the Commission as having paid a service charge under this Plan during a crop year are to be included on the list of eligible producers for that crop year;
- (d) once a producer is listed with the Commission as an eligible producer, the producer continues to be an eligible producer from crop year to crop year, unless the eligible producer ceases to pay a service charge under this Plan in 2 subsequent crop years, in which case the producer ceases to be an eligible producer;
- (e) any producer who is not listed on the Commission's list of eligible producers must be added to the list where the producer can provide proof to the Commission that the producer has paid a service charge under this Plan in the crop year for which the application is made;
- (f) any producer who is not listed on the Commission's list of eligible producers for a crop year may be added to the list for that crop year if the producer signs a declaration stating that the producer has paid a service charge under this Plan within the period qualifying for eligibility;
- (g) notwithstanding clause (f), a producer to whom that clause applies is not eligible to be elected or appointed as a delegate pursuant to section 27 or a director pursuant to section 32 or 48 without further proof, satisfactory to the Commission, that the producer has paid the service charge;
- (h) where a producer ceases to be an eligible producer under clause (d), the producer is entitled to again become an eligible producer for any crop year in which the producer pays a service charge under this Plan;
- (i) producers may make voluntary payments and the service charge will be based on production for those producers who do not sell the regulated product produced by the producer if there is evidence of production of the regulated product.

AR 111/99 s17;65/2004

**General rights of eligible producers**

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

- (a) to attend any annual region meeting and any special region meeting held for the region in which the eligible producer carries on production of the regulated product;

- (b) to make representations on any matter pertaining to this Plan and the operation of the Commission and the board;
- (c) to vote on any matter under this Plan at any meeting of eligible producers at which a vote is held for the region in which the eligible producer carries on production of the regulated product;
- (d) to vote in any election for delegates, region directors or directors at large at any meeting of eligible producers at which an election is held for the region in which the eligible producer carries on production of the regulated product;
- (e) if elected or appointed pursuant to section 27, to hold office as a delegate for the region in which the eligible producer carries on production of the regulated product;
- (f) if elected pursuant to section 32 or appointed pursuant to section 48, to hold office as a director at large or region director for the region in which the eligible producer carries on production of the regulated product;
- (g) to vote in any plebiscites of producers held under the Act.  
AR 111/99 s18;65/2004

#### **Eligible producers who are individuals**

**19(1)** Where an eligible producer is an individual, that individual may, subject to this Plan, exercise the rights of an eligible producer referred to in section 18.

**(2)** Notwithstanding anything in this Plan, an eligible producer who is an individual may be represented by an agent.

**(3)** An agent shall not cast a vote under this Plan unless

- (a) the agent presents a valid proxy signed by the eligible producer indicating the name of the person who may vote for the eligible producer, or
- (b) the agent makes a statutory declaration in writing stating that
  - (i) the person is an agent of the eligible producer, and
  - (ii) neither that person nor, to the best of that person's knowledge, the eligible producer has previously voted in the election or on the matter in respect of which the agent wishes to cast a vote.

(4) A statutory declaration made under subsection (3)(b) must be made in writing before the returning officer or the deputy returning officer prior to the vote being cast.

**Eligible producers that are not individuals**

**20(1)** Where an eligible producer is not an individual, that eligible producer may, only in accordance with this section, exercise the rights of an eligible producer referred to in section 18.

(2) An eligible producer to which this section applies must appoint an individual to be the representative of the eligible producer.

(3) A representative appointed by an eligible producer under this section is, subject to this Plan, to exercise on behalf of the eligible producer the rights referred to in section 18.

(4) If an eligible 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, other than a corporation or a partnership, it must 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 must 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 an eligible producer shall not cast a vote under this Plan unless

- (a) the individual presents a document signed by the eligible producer indicating the name of the person who may vote for the eligible producer, or
- (b) the individual makes a statutory declaration in writing stating that
  - (i) the individual is a representative of the eligible producer, and

- (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.

(7) A statutory declaration made under subsection (6)(b) must 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).

## **Division 2 Regions**

### **Regions**

**21(1)** For the purpose of this Plan, Alberta is divided into 6 regions.

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

(3) For the purposes of

- (a) altering the area that is included within a region, or
- (b) increasing or decreasing the number of regions,

the Commission may, in accordance with Part 3 of the Act, apply to amend this Plan.

### **Region delegates**

**22(1)** The number of delegates to be elected in all regions is a number determined by the board, not to be less than 32.

(2) Each region is entitled to have at least 3 delegates.

(3) Each year at a time determined by the board the board shall allocate the 32 positions among all regions in a manner determined by the board that reflects barley production within the regions over the preceding 5-year period.

(4) If, as a result of the allocation under subsection (3) a region would have fewer than 3 delegates, the board shall allocate sufficient additional positions to that region to bring the number of positions to 3.

AR 111/99 s22;65/2004

#### **Region committees**

**23(1)** The delegates for a region and the director for the region form the region committee for that region.

(2) The director for a region is the chair of the region committee.

#### **Region committee meetings**

**24** Delegates must conduct region committee meetings

(a) at the call of the chair of the region committee, or

(b) at the request of the board.

#### **Quorum re region committee meetings**

**25** The quorum for a region committee meeting is a majority of the delegates within the region then holding office.

#### **Qualifications re region delegates**

**26** A region delegate must

(a) be an eligible producer, and

(b) carry on production of the regulated product in the region that the region delegate is elected to represent.

#### **Election of delegates**

**27(1)** At the region's annual region meeting the eligible producers in each region are to elect delegates determined in accordance with section 22 to represent the eligible producers from that region.

(2) Where no more than the required number of eligible producers have been nominated to fill the required number of positions of delegates for a region, the returning officer must declare the eligible producers nominated as being elected by acclamation.

(3) Where less than the required number of delegates have been declared elected by acclamation, the delegates in each region who have been declared elected are, subject to the approval of the board, to appoint eligible producers, who are eligible to be elected as

delegates, to the remaining delegate positions and the eligible producers so appointed hold office as if elected.

AR 111/99 s27;65/2004

#### **Term of office of delegates**

**28(1)** Each delegate is to be elected for a term of 2 years.

**(2)** The term of office of a delegate

- (a) commences on the conclusion of the annual region meeting at which the delegate was elected, and
- (b) expires on the conclusion of the annual region meeting that takes place in the year that the delegate's term of office is to expire.

**(3) to (5)** Repealed AR 65/2004 s7.

AR 111/99 s28;65/2004

#### **Vacancy re delegates**

**29(1)** If a delegate ceases to hold office before the expiry of that delegate's term of office, the remaining delegates from that region are, subject to the approval of the board, to appoint another eligible producer, who is eligible to be elected as a delegate, as a delegate to replace the delegate who ceased to hold office.

**(2)** Where a person is appointed as a delegate under subsection (1), that person is to serve for the unexpired portion of that term of office.

#### **Removal of delegate**

**30(1)** At an annual region meeting or special region meeting, the eligible producers within the region may, by means of a motion to remove a delegate from office passed by a majority of eligible producers entitled to vote at that meeting, remove a delegate from office.

**(2)** Where a delegate ceases to be an eligible producer or a representative of an eligible producer during that person's term of office, that person, unless the person sooner resigns, ceases to be a delegate.

#### **Functions of delegates**

**31** In addition to what an eligible producer may do under this Plan, a delegate may

- (a) attend any annual Commission meeting and any special Commission meeting;
- (b) make representations on any matter pertaining to this Plan or the operation of the Commission and the board;
- (c) vote on each matter put to the question;
- (d) vote on any matter under this Plan;
- (e) be appointed by the directors to sit as a member of a committee established by the board;
- (f) be appointed by the board to represent the Commission on any task force, committee, group or organization of which the Commission is a member.

**Election of directors at annual region meeting**

**32(1)** The election of a director to represent a region is to be carried out by means of a vote conducted at the annual region meeting of the eligible producers in attendance at that meeting who are eligible to vote in an election.

**(2)** The election of a director at large is to be carried out by means of a vote conducted at each annual region meeting by a vote of the eligible producers in attendance at that meeting who are eligible to vote in that election and the candidate receiving the largest total number of votes from all the regions is to be declared elected as the director at large at the next annual Commission meeting that is held after all the annual region meetings are completed.

**(3)** The quorum requirement in section 38 does not apply for the purposes of a vote under subsection (2).

AR 111/99 s32;65/2004

**Failure to elect director at annual region meeting**

**33(1)** If the eligible producers in a region fail to elect a director at the annual region meeting, the election of a director for that region may be carried out at the next annual Commission meeting that is held after the time at which the election was to have been held at the annual region meeting.

**(2)** Where an election is to be held pursuant to this section, nominations may be received

- (a) prior to the annual Commission meeting, or
- (b) from the floor at the annual Commission meeting.

**Annual region meeting**

**34(1)** The Commission must, before the commencement of the annual Commission meeting, hold an annual region meeting of the eligible producers who carry on production of the regulated product within the region.

**(2)** At the annual region meetings, the eligible producers in the region are to be provided with

- (a) information with respect to the Commission and the board,
- (b) an opportunity to provide to the board suggestions and recommendations, and
- (c) an opportunity, when necessary, to conduct elections.

**Special region meeting**

**35** The Commission

- (a) must hold a special region meeting of the eligible producers who carry on production of the regulated product within the region on the written request of the directors, or
- (b) may hold a special region meeting of the eligible producers within that region when the region committee is of the opinion that circumstances warrant the holding of a special region meeting.

**Financing of general region meetings**

**36** The annual region meeting and any special region meeting are to be organized and financed by the Commission.

**Calling of general region meetings**

**37(1)** The time, place and day of any annual region meeting and of any special region meeting is to be set by the Commission.

**(2)** The Commission must publish a notice of any annual region meeting and of any special region meeting

- (a) in the official Commission newsletter, or
- (b) in a newspaper having general circulation within the region.

(3) Notwithstanding subsection (2), the Commission may publish or otherwise publicize notice of a meeting in any other manner that the Commission determines.

(4) A notice of a meeting must set forth the time, location, day and purpose of the meeting.

#### **Quorum re general region meetings**

**38** The quorum for an annual region meeting or a special region meeting is not fewer than 5 of the eligible producers who carry on production of the regulated product within the region in respect of which the meeting is being conducted.

AR 111/99 s38;65/2004

### **Division 3 Commission, Board of Directors and Directors**

#### **Board of directors**

**39** The Commission consists of a board of directors made up of

- (a) 6 directors, with one director being elected from each of the regions to represent the region from which the director is elected, and
- (b) 3 directors to be elected at large.

#### **Chair and vice-chair**

**40** The directors at their first board meeting following the election of the directors to the board are to elect from the directors

- (a) a chair of the Commission, and
- (b) a vice-chair of the Commission.

#### **Remuneration**

**41** The remuneration to be paid to the directors may be fixed from time to time by delegates at an annual Commission meeting or a special Commission meeting.

#### **Board meetings**

**42** The board may, at the call of the chair or of not fewer than 3 directors, conduct meetings of the board.

**Quorum re board meetings**

**43(1)** The quorum for a meeting of the board is a majority of the directors.

**(2)** In determining a quorum under subsection (1), a vacant director's position on the board is not to be considered.

**Qualifications re director**

**44(1)** To be eligible for election as a director to represent a region, an eligible producer must carry on production of the regulated product in that region.

**(2)** To be eligible for election as a director at large, an eligible producer must carry on production of the regulated product in Alberta.

**(3)** Not more than 2 directors may carry on production in the same region.

**Nominations and elections for directors**

**45(1)** The Commission is to solicit nominations for the position of director at large and of director for each region from which a director is required to be elected

- (a) by publishing a notice in the official Commission newsletter,
- (b) by publishing a notice in a newspaper having general circulation within the region, or
- (c) by such other means as the Commission may determine.

**(2)** Nominations for the position of director must be

- (a) filed at the Commission's head office in writing by a date fixed by the Commission,
- (b) in the case of a director at large, signed by at least 10 eligible producers who carry on production in Alberta,
- (c) in the case of a director for a region, signed by at least 10 eligible producers who carry on production in the region in which the election is to be held, and
- (d) accompanied by the written consent of the eligible producer nominated as a director.

**(3)** The elections for directors are to be carried out pursuant to sections 32 and 33.

**Term of office of directors**

- 46(1)** Each director is to be elected for a term of 3 years.
- (2)** The term of office of a director
- (a) commences on the conclusion of the annual Commission meeting at which the director was declared elected, and
  - (b) expires on the conclusion of the annual Commission meeting that takes place in the year that the director's term of office is to expire.
- (3)** An eligible producer shall not serve for more than 2 consecutive terms as a director.
- (4)** If an eligible producer serves for 2 consecutive terms as a director, that eligible producer is not eligible to serve again as a director until one year has expired following the expiry of that eligible producer's last term of office as a director.
- (5)** A director may, with the approval of the Council, be elected to serve one additional consecutive term as director to enable the Board of Directors to fulfil its commitments to a national group, an industry group or to an association of which the Commission is a member.

AR 111/99 s46;65/2004;22/2009

**Removal of director**

- 47** Where a director
- (a) ceases to be an eligible producer or a representative of an eligible producer during that person's term of office, that person, unless the person sooner resigns, ceases to be a director of the Commission, or
  - (b) is absent from 3 consecutive meetings of the board, without reasons that the board considers adequate, that person's position on the board is deemed to be vacant on the conclusion of the 3rd consecutive meeting from which that person was absent.

**Vacancy re director**

- 48(1)** If a vacancy occurs on the board, the board may, with the approval of the Council, appoint another eligible producer, who is eligible to be elected as a director, to fill that vacancy.
- (2)** Where a person is appointed as a director under subsection (1), that person is to serve for the unexpired portion of the term.

**Annual Commission meetings**

**49(1)** An annual Commission meeting must be held

- (a) once in each year, and
- (b) within 13 months following the date of the commencement of the last annual Commission meeting.

**(2)** At the annual Commission meeting, the directors and the delegates

- (a) are to receive and to be provided with an opportunity to consider and discuss the annual reports of the Commission and the operation of the Commission since the last annual Commission meeting,
- (b) are to receive and to be provided with an opportunity to consider and discuss the annual reports of any committees appointed by the Commission,
- (c) are to receive and to be provided with an opportunity to consider and discuss the auditor's annual financial statement and report,
- (d) are to appoint an auditor for the Commission for the coming year, and
- (e) are to be provided with an opportunity to discuss and formulate the policies to assist the board in carrying out its general duties under this Plan and in carrying out the powers and duties vested in the Commission.

**Special Commission meetings**

**50** Special Commission meetings of the directors and delegates or of the eligible producers

- (a) may be called by the board, and
- (b) must be called by the board on the written request
  - (i) of the Council,
  - (ii) of 50% or more of the delegates, or
  - (iii) of 10% or more of the eligible producers.

**Calling of general Commission meetings**

**51(1)** The time, place and day of any annual Commission meeting and of any special Commission meeting is to be set by the Commission.

**(2)** The Commission must publish a notice of an annual Commission meeting and of a special Commission meeting

- (a) for the purposes of notifying the eligible producers, in the official Commission newsletter, and
- (b) for the purposes of notifying the delegates, by
  - (i) ordinary mail sent to the delegate's last address shown on the records of the Commission, or
  - (ii) facsimile, e-mail or other electronic means sent to the delegate's last electronic address shown on the records of the Commission.

**(3)** Notwithstanding subsection (2), the Commission may publish or otherwise publicize notice of a meeting in any other manner that the Commission determines.

**(4)** A notice of a meeting must set forth the time, location, day and purpose of the meeting.

**Quorum re general Commission meetings**

**52(1)** The quorum for an annual Commission meeting or a special Commission meeting is not fewer than 25 persons.

**(2)** For the purposes of determining a quorum under this section, a person referred to in subsection (1) must be either a delegate or a director.

## **Part 3 Voting and Elections**

**Name must be on current list of eligible producers**

**53** Where an eligible producer is entitled to vote under this Plan, the eligible producer shall not cast a vote unless the eligible producer's name appears on the current list of eligible producers.

**Eligibility to vote re delegates and directors**

**54(1)** Every delegate and director is eligible to vote on any question put to a vote at an annual Commission meeting or a special Commission meeting if the delegate or director, as the case may be, is present at the meeting at which the vote is held.

(2) Unless an eligible producer is a delegate or a director, that eligible producer is not entitled to vote on any question put to a vote at an annual Commission meeting or a special Commission meeting.

(3) Notwithstanding subsection (2), an eligible producer who is not a delegate or a director may, if so directed by the board, vote on a question put to a vote at a special Commission meeting if the eligible producer is present at the meeting at which the vote is held.

#### **Eligibility to vote re eligible producers**

**55(1)** An eligible producer is eligible to vote in an election for a delegate and on any question put to a vote at an annual region meeting or a special region meeting if the eligible producer

- (a) carries on production of the regulated product in the region, and
- (b) is present at the meeting at which the vote is held.

(2) An eligible producer is eligible to vote in an election for a director if,

- (a) in the case of an election of a director to represent a region, the eligible producer carries on production in the region for which the election is taking place and is present at the meeting at which the election is being held, and
- (b) in the case of an election of a director at large, the eligible producer carries on production in Alberta and is present at the meeting at which the election is being held.

(3) Neither

- (a) an eligible producer, nor
- (b) an agent of an eligible producer provided for under section 19,

may vote more than once on each matter notwithstanding that the eligible producer or the agent may manage or operate or own, lease or hold equity in 2 or more operations.

#### **Insufficient attendance for an election**

**56(1)** If an election is held under this Plan and there is insufficient 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 under 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) If a position is vacant under subsection (1), the Council is to fill the position by appointing, from persons eligible to be elected to that position, a person to fill that position.
- (4) A person appointed under subsection (3) is to serve for the unexpired portion of the term that runs to the next annual Commission meeting following the person's appointment, at which time
- (a) the person ceases to hold office, and
  - (b) an election is to be held to fill the office for the unexpired portion, if any, of the term of the vacant position.

#### **Returning officer**

- 57(1)** The Commission must appoint a returning officer for the purposes of and in connection with any election or vote taken under this Plan.
- (2) The returning officer may appoint individuals as deputy returning officers to assist in the conduct of elections and votes under this Plan.
- (3) The returning officer
- (a) must compile and maintain a voters list of eligible producers who are entitled to vote under this Plan,
  - (b) is to ensure that a person does not cast a vote, except in accordance with this Plan, and
  - (c) must 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 taken under this Plan.
- (4) 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.

**Controverted election****58(1)** If 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,

that person may, 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 must 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) order that, within the time that the Council considers proper, a special Commission meeting be held and an election be conducted to fill the vacant position, or
- (b) appoint from among the eligible producers 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), the person is to serve for the unexpired portion of the term.

## **Part 4 Review and Repeal**

**59, 60** Repealed AR 5/2014 s3.

### **Review**

**61** In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before April 30, 2019.

AR 111/99 s61;65/2004;22/2009;5/2014

### **Repeal**

**62** The *Alberta Barley Plan Regulation* (AR 216/91) is repealed.

## **Schedule**

### **Regions**

**1** Region 1 is made up of the area that is included in the following:

- (a) County of Newell;
- (b) County of Warner No. 5;
- (c) County of Forty Mile No. 8;
- (d) County of Lethbridge;

- (e) Cypress County;
- (f) Cardston County;
- (g) Municipal District of Pincher Creek No. 9;
- (h) Municipal District of Taber;
- (i) Municipal District of Willow Creek No. 26;
- (j) any city, town or village that is encompassed by the area described in clauses (a) to (i).

**2** Region 2 is made up of the area that is included in the following:

- (a) Vulcan County;
- (b) Wheatland County;
- (c) Mountain View County;
- (d) Municipal District of Foothills No. 31;
- (e) Rocky View County;
- (f) Starland County;
- (g) Kneehill County;
- (h) Special Area No. 2;
- (i) Special Area No. 3;
- (j) Special Area No. 4;
- (k) Municipal District of Acadia No. 34;
- (l) Municipal District of Bighorn No. 8;
- (m) Municipal District of Ranchland No. 66;
- (n) any city, town or village that is encompassed by the area described in clauses (a) to (m).

**3** Region 3 is made up of the area that is included in the following:

- (a) Ponoka County;
- (b) County of Stettler No. 6;

- (c) Lacombe County;
- (d) County of Paintearth No. 18;
- (e) Red Deer County;
- (f) Flagstaff County;
- (g) Clearwater County;
- (h) Municipal District of Provost No. 52;
- (i) Municipal District of Wainwright No. 61;
- (j) any city, town or village that is encompassed by the area described in clauses (a) to (i).

**4** Region 4 is made up of the area that is included in the following:

- (a) Beaver County;
- (b) Smoky Lake County;
- (c) County of St. Paul No. 19;
- (d) Camrose County;
- (e) County of Vermilion River;
- (f) Lamont County;
- (g) Municipal District of Bonnyville No. 87;
- (h) repealed AR 22/2009 s4;
- (i) County of Minburn No. 27;
- (j) County of Two Hills No. 21;
- (k) any city, town or village that is encompassed by the area described in clauses (a) to (j).

**5** Region 5 is made up of the area that is included in the following:

- (a) Thorhild County;
- (b) County of Wetaskiwin No. 10;
- (c) Athabasca County;

- (d) County of Athabasca No. 12;
- (e) Strathcona County;
- (f) Leduc County;
- (g) Lac Ste. Anne County;
- (h) Parkland County;
- (i) Sturgeon County;
- (j) Westlock County;
- (k) Yellowhead County;
- (l) Woodlands County;
- (m) Brazeau County;
- (n) any city, town or village that is encompassed by the area described in clauses (a) to (m).

**6** Region 6 is made up of the area that is included in the following:

- (a) County of Grande Prairie No. 1;
- (b) Municipal District of Smoky River No. 130;
- (c) Municipal District of Spirit River No. 133;
- (d) Municipal District of Peace No. 135;
- (e) Municipal District of Fairview No. 136;
- (f) Municipal District of Greenview No. 16;
- (g) Municipal District of Big Lakes;
- (h) Birch Hills County;
- (i) Saddle Hills County;
- (j) Clear Hills County;
- (k) County of Northern Lights;
- (l) Mackenzie County;
- (m) Northern Sunrise County;

- (n) Municipal District of Lesser Slave River No. 124;
- (o) Municipal District of Opportunity No. 17;
- (p) any city, town or village that is encompassed by the area described in clauses (a) to (o).

AR 111/99 Sched; 22/2009;5/2014



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