

(Consolidated up to 162/2012)

ALBERTA REGULATION 70/93

Marketing of Agricultural Products Act

ALBERTA CHICKEN PRODUCERS' PLAN REGULATION

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Definitions

1 In this Plan,

- (a) “Act” means the Marketing of Agricultural Products Act;

- (b) “annual Board meeting” means an annual general meeting of the members of the Board and of the licensed producers;
 - (b.1) “assets” means economic resources controlled by the body as a result of past transactions and from which future economic benefits may be obtained;

 - (b.2) “auditor” means a person registered under the Regulated Accounting Profession Act or a firm or partnership of those persons;

- (c) “Board” means the board established under section 7;
 - (c.1) repealed AR 162/2012;

(d) “chicken” means any category of chicken that

(i) is under 6 months of age, and

(ii) is not raised for egg production;

(e) “consumer” means a person who receives or purchases chicken or parts or portions of chicken wholly for the use of that person or that person’s family;

(f) “Council” means the Alberta Agricultural Products Marketing Council;

(f.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;

(g) “licensed producer” means a person who holds a licence issued by the Board authorizing that person to produce and market chicken;

(h) “marketing” means buying, owning, selling, offering for sale, storing, grading, assembling, packing, transporting, advertising or financing;

(i) “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);

(j) “Plan” means the Plan that is established under section 3;

(k) “processing” means changing the nature of chicken by mechanical means or otherwise and includes the killing of chicken;

(l) “processor” means a person who is engaged in the business of processing chicken;

(m) “producer” means a person who is engaged in the production of chicken in Alberta;

(n) “production” includes the possession of chicken;

(o) “production facilities” includes the buildings or improvements or both in which chicken is produced and the parcel of land on which the buildings or improvements or both are located;

(p) “quota” means the privilege granted by the Board to a producer to produce and market chicken;

(q) “regulated product” means chicken;

(r) “special Board meeting” means a special general meeting of the members of the Board and of the licensed producers.

AR 70/93 s1;262/2001;28/2011;162/2012

Designation

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

Part 1

General Operation of Plan

Division 1

Plan

Establishment of Plan

3 The Alberta Chicken Producers' Plan is hereby established.

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(1) This Plan applies

(a) to all of Alberta,

(b) to all persons who produce or market or produce and market any kind or grade of chicken, and

(c) for the purposes of section 9(1)(b), (c), (d), (e), (f) and (g) and (2)(f), (h), (i), (j), (k), (l), (1.1), (1.3), (m), (p) and (q) to processors.

(2) A person who has not been granted a quota under this Plan is exempt from the licensing, service charge and quota provisions of this Plan if

- (a) the person does not produce more than 2000 chickens in a calendar year,
- (b) the person ordinarily resides on the same parcel of land on which the production facilities where the chicken is produced are located,
- (c) not more than 2000 chickens are produced on the land where the production facilities are located, and
- (d) the chicken is
 - (i) consumed by the person or the person's family, or
 - (ii) sold to consumers from
 - (A) the land referred to in clause (b),
 - (B) land that is adjacent to the land referred to in clause (b), or
 - (C) a stall at a farmers' market.

AR 70/93 s5;162/2012

Purpose and intent

6 The purpose of the Plan is

- (a) to provide for the effective promotion, control and regulation in all respects of the production and marketing, or either of them, of the regulated product, including the prohibition of production and marketing in whole or in part,

(b) without limiting the generality of clause (a), to accomplish the following:

(i) to establish quotas for the production and marketing of the regulated product;

(ii) to maintain a fair and stabilized price for the regulated product;

(iii) to develop and maintain the orderly marketing of the regulated product;

(iv) to provide a uniform, high quality of the regulated product for the market;

(v) to maintain adequate advertising and promotion of the regulated product;

(vi) to work with marketing boards and similar organizations having similar objectives including such boards and organizations that may be established in other provinces;

(vii) to provide for the prohibition of production or marketing of the regulated product where the regulated product is not marketed under or pursuant to a quota

and

(c) 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.

AR 70/93 s6;28/2011

Division 2

Operation of Plan by the Board

Board continued

7(1) A board with the name “Alberta Chicken Producers” is hereby established.

(2) The Board shall operate pursuant to this Plan.

Responsibilities of Board

8 The Board

(a) is, subject to the Act, responsible for the operation, regulation, supervision and enforcement of this Plan;

(b) may appoint officers and agents, including an Executive Director, Chief Executive Officer or General Manager, as the case may be, and may prescribe their duties and fix and provide for their remuneration;

(c) shall open one or more bank accounts and designate any officers, employees and other persons necessary to

(i) sign cheques and other negotiable instruments,

(ii) transact the Board’s business with its bank, trust corporation, credit union, treasury branch or other depository, and

(iii) generally do all things incidental to or in connection with the transaction of the Board’s business with its bank, trust corporation, credit union, treasury branch or other depository;

(c.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;

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

(d) must maintain such books and records, including financial records,

(i) as from time to time may be required under the Act or the regulations or by virtue of an order by the Council, and

(ii) as may be determined by the Board;

(e) shall maintain an office and notify each licensed producer, licensed processor, licensed hatchery and the Council of the location of the office;

(f) subject to the Act, the regulations and any applicable Orders in Council, may issue administrative orders and directives respecting the carrying out of its powers and duties and may issue policies and procedures governing the Board's operations;

(g) may retain earnings and revenues from year to year to finance the purposes of the Plan.

AR 70/93 s8;262/2001;28/2011;162/2012

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 the regulated product to register their names and addresses with the Board;

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

(c) requiring persons to be licensed under the Plan before they become engaged in the production, marketing and processing, or any one or more of those functions, of the regulated product;

(d) prohibiting persons from engaging in the production, marketing or processing, as the case may be, of the regulated product except under the authority of a licence;

(e) governing the issuance, suspension or cancellation of a licence;

(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 the Plan, and

(ii) the taking of legal action to enforce payment of the service charges and licence fees, as the case may be;

(g) requiring any person who receives any regulated product 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 the 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 the regulated product 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 the regulated product on any basis the Board considers appropriate;

(c) governing the transferability or non-transferability of quotas;

(d) establishing

(i) a formula for determining the volume, weight, components, contents amount or number of regulated product 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 purpose of determining the amount of regulated product 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 the regulated product 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 any regulated product to a producer under the Plan to furnish to the Board any information requested by the Board;

(g) determining the quantity, weight and volume of each class, variety, size, grade, kind, components and contents of the regulated product 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 the regulated product or any class, variety, size, grade or kind of the regulated product in a manner that the Board considers appropriate;

(i) regulating and controlling the production or marketing, or both, of the regulated product, including the times and places at which the regulated product may be produced or marketed;

(j) determining or respecting the determination of the minimum price or prices that shall be paid to producers for the regulated product or any class, variety, size, grade, volume, weight, components, contents or kind of the regulated product and determining different prices for different parts of Alberta;

(k) requiring that the money payable or owing to a producer for the regulated product be paid to or through the Board;

(l) providing for the payment to a producer of the money payable or owing for the regulated product, less any service charges and levies owing to the Board by the producer, and fixing the time or times at which or within which the payments shall be made;

(1.1) regulating and controlling agreements entered into by producers of a regulated product with persons engaged in marketing or processing of the regulated product, including to prohibit any provision in the agreements;

(1.2) providing for the terms and conditions on which a person may market the regulated product in excess of the quota fixed and allocated to the person;

(1.3) respecting the amount, manner and time of payments to producers by processors and requiring the making of statements and other documents accompanying payments and respecting the information to be contained in the statements and other documents;

(m) governing

(i) the furnishing of security or proof of financial responsibility by any person engaged in the production, marketing or processing of the regulated product, and

(ii) the administration and disposition of any money or securities so furnished;

(n) prohibiting a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of the regulated product from producing or marketing, as the case may be, any regulated product;

(o) prohibiting a producer to whom a quota has been fixed and allotted for the production or marketing, or both, of the regulated product from producing or marketing, as the case may be, any regulated product in excess of that quota;

(p) prohibiting any person from purchasing or otherwise acquiring from a producer any regulated product in excess of the quota that has been fixed and allotted to the producer for the production or marketing, or both, of the regulated product;

(q) prohibiting any person from purchasing or otherwise acquiring any regulated product from a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of the regulated product.

(3) A regulation made by the Board under section 26 or 27 of the Act shall not be filed in accordance with the Regulations Act unless the regulation is first submitted to and approved of by the Council.

AR 70/93 s9;162/2012

Financing of the Plan

10 In accordance with the regulations this Plan shall be financed by the charging and collection of service charges, licence fees and levies.

Remuneration

11 The remuneration to be paid to the chairman of the Board and to the other members of the Board shall be fixed by a vote of the licensed producers at an annual Board meeting or special Board meeting.

Appointment of auditor

12(1) The licensed producers shall from time to time appoint an auditor for the Board.

(2) The appointment of an auditor shall be made at an annual Board meeting or a special Board meeting.

Authority from Governor in Council

13 The Board is empowered to accept and exercise any power and authority delegated to it by or pursuant to the Agricultural Products Marketing Act (Canada) or the Farm Products Agencies Act (Canada), or both of them.

AR 70/93 s13;262/2001

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

Representation

Members of the Board

15 Subject to section 17, the Board consists of 5 members, who must be licensed producers.

AR 70/93 s15;262/2001

Chairman, etc.

16 Within 30 days from the day that the members of the Board are elected to the Board, the members of the Board shall elect from among themselves

(a) a licensed producer to be the chairman of the Board, and

(b) a licensed producer to be the vice-chairman of the Board.

Terms of office

17(1) Each member of the Board shall be elected for a term of 3 years.

(2) A licensed producer shall not serve as a member of the Board for more than 9 consecutive years and if the person serves for 9 consecutive years, the person is not eligible to serve again as a member of the Board until one year has expired following the expiry of that person's last term.

(3) and (4) Repealed AR 160/2011 s2.

(4) A person who is elected under subsection (3) is not eligible to be elected to the Board again until 3 years have expired following the expiry of the additional term referred to in subsection (3).

AR 70/93 s17;262/2001;160/2011

Vacancy

18(1) If a vacancy occurs on the Board, the Board may, with the approval of the Council, appoint from among the licensed producers who are eligible to be elected to the Board a person to act as a member until the date of the next annual Board meeting, at which time the position shall be filled by an election held in accordance with this Plan.

(2) A licensed producer who is elected as a member of the Board pursuant to this section shall hold office for the unexpired portion of the term.

General meetings

19(1) The Board shall hold an annual Board meeting at least once in each calendar year.

(2) Not more than 16 months may elapse between annual Board meetings.

(3) A special Board meeting

(a) may be called by the Board, and

(b) shall be called by the Board on the written request of the Council or of 25 or more licensed producers.

(4) The time and place of an annual Board meeting or a special Board meeting shall be fixed by the Board.

Meetings of Board

20 The Board may, at the call of the chairman or 3 other members of the Board, conduct meetings of the members of the Board.

Notification of general meetings

21(1) Where an annual Board meeting or a special Board meeting is to be held, the Board shall in writing notify each licensed producer who is entitled to vote under the Plan of the meeting by forwarding the notice by ordinary mail to the licensed producer at the latest address for the licensed producer that is on the records of the Board.

(2) A notice given under this section

(a) shall be forwarded to the licensed producer at least 14 days before the meeting is to take place, and

(b) shall set out

(i) the time, place, date and purpose of the meeting, and

(ii) any other information as determined by the Board.

Quorum

22 The quorum necessary under this Plan

(a) in the case of an annual Board meeting or special Board meeting is

(i) 25 licensed producers, or

(ii) 10% of the licensed producers,

whichever is the greater, and

(b) in the case of a meeting of the members of the Board is 3 members of the Board.

Part 3

Eligibility, Voting and Elections

Licensed producers who are individuals

23 Where a licensed producer is an individual, the following applies:

(a) that individual may vote in an election or on any matter under this Plan or hold office under this Plan but an agent of that individual shall not, on behalf of that individual, vote in an election or on any matter under this Plan or hold office under this Plan;

(b) that individual shall not on that individual's own behalf, vote in an election or on any matter under this Plan unless

- (i) the individual's name appears on the current voters list, or
- (ii) the individual makes a statutory declaration stating that the individual

(A) is a licensed producer, and

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

(c) notwithstanding clause (a), if that individual is appointed as a representative of a licensed producer under section 24, that individual, during the time that the individual is a representative of a licensed producer,

(i) may only vote in an election or on any matter under this Plan or hold office under this Plan in that individual's capacity as a representative of a licensed producer, and

(ii) shall not vote in an election or on any matter under this Plan or hold office under this Plan in the individual's own capacity as a licensed producer.

Licensed producers that are not individuals

24(1) Where a licensed producer is a person other than an individual, that licensed producer shall not

(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, or

- (e) hold office under this Plan,

except in accordance with this section.

(2) A licensed producer that is a person other than an individual shall appoint an individual to be the representative of the licensed producer and that individual shall on behalf of that licensed producer do the following:

- (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.

(3) If a licensed 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 partnership, it shall appoint an individual who is a member, officer or employee of the organization as its representative.

(4) 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 licensed producer, and

(b) be filed with the Board.

(5) A representative of a licensed producer shall not cast a vote under this Plan unless

(a) the licensed producer's name appears on the current voters list, and

(b) that representative, prior to the vote being cast, provides in accordance with subsection (7) a copy of the document filed under subsection (4).

(6) Notwithstanding subsection (4) or (5), if a licensed producer or a representative of a licensed producer has failed to meet the requirements of subsection (4) or (5)(a) or is unable to produce a copy of the document filed under subsection (4), an individual who is the representative of the licensed producer may cast a vote under this Plan if the individual, prior to the vote being cast, makes a statutory declaration in writing stating that the individual

(a) is the representative of the licensed producer, and

(b) has not previously voted in the election or on the matter in respect of which the vote is to be taken.

(7) The document or statutory declaration referred to in subsection (5) or (6) 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.

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

(8.1) An individual who is appointed as a representative of a licensed producer must not vote in an election or on any other matter or hold office under this Plan in the individual's own capacity as a licensed producer.

(9) A representative may not hold office under this Plan on behalf of the licensed producer before the representative's appointment is filed in accordance with subsection (4).

AR 70/93 s24;162/2012

Eligibility re Board member

25(1) A person may be elected to the Board if the person

(a) is a licensed producer,

(b) has been allocated a quota by the Board,

(c) has been nominated in accordance with this Plan, and

(d) is not a processor, a designated representative of a processor or a member of the board of directors or otherwise involved in the management or direction of an organization that processes chicken.

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

(a) ceases to be licensed producer,

(b) has been found to be of unsound mind by a court in Canada or elsewhere,

(c) is a bankrupt, or

(d) is, without the approval of the Board, which can be given before or after the absence occurs, absent for 3 consecutive meetings of the Board.

Eligibility to vote

26 A licensed producer is entitled to vote in an election of a member of the Board or on any question put to a vote if the licensed producer is present at the meeting at which the election or vote is being held.

Voting

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

Voters list

28(1) When an election to the Board is to be conducted, the returning officer shall prepare, not less than 30 days before the election is to be held, a list of the licensed producers who are eligible to vote in the election.

(2) The voters list shall be available to any person for inspection before, during and after an election.

Nominations

29(1) Nominations for candidates for election as members of the Board must

(a) be signed by at least 2 licensed producers 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) Notwithstanding subsection (1), nominations from the floor shall be accepted if

(a) made and seconded by licensed producers attending the meeting at which the election is to be held, and

(b) the nominee

(i) is in attendance, and

(ii) consents to the nomination.

Elections

30 Subject to section 34, elections to the Board shall be conducted at the annual Board meeting.

Returning officer

31(1) Subject to subsection (2), the General Manager of the Board shall be the returning officer for the purposes of an election or vote taken under this Plan.

(2) The Board may appoint a person other than the General Manager to act as returning officer for the purposes of an election or vote taken under this Plan.

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

Duties of returning officer

32(1) The returning officer shall

(a) ensure that a person does not cast a vote except in accordance with this Plan,
and

(b) permit scrutiny of the actions of the returning officer and the deputy returning officers by a scrutineer in respect of the conduct of a vote taken under this Plan.

(2) Unless otherwise directed by Council, no returning officer or other 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 date the vote was taken.

Result of invalid election

33(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 by reason of subsection (1), the term of office of the position is deemed to have commenced as if a person had been elected to the position.

Controverted election

34(1) If a licensed 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 licensed producer shall, not later than 15 days after the date of the election, apply in writing to the Council to have the election declared invalid and the position declared vacant.

(2) If, within 15 days after the date 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 15 days after the date 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 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 date that the election that was declared void was held.

(6) Notwithstanding section 18, if the Council declares an election to be void and the position vacant, the Council shall

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

(b) have the Board appoint, from among persons who are eligible to be elected to the position, a person to fill the vacant position, in accordance with section 18.

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

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

AR 70/93 s34;162/2012

Review

34.1 In compliance with the on-going regulatory review initiative, this Regulation must be reviewed on or before May 31, 2017.

AR 208/96 s2;262/2001;100/2007;162/2012

35 Repealed AR 100/2007 s3.

Repeal

36 Alberta Regulation 17/66 is repealed