



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

ALFALFA SEED PLAN REGULATION

Alberta Regulation 181/2009

With amendments up to and including Alberta Regulation 101/2014

Office Consolidation

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(Consolidated up to 101/2014)

ALBERTA REGULATION 181/2009
Marketing of Agricultural Products Act
ALFALFA SEED 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 the annual general meeting of eligible 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;
- (b.3) “board” means the board of directors established under section 13;
- (c) “Commission” means the Alfalfa Seed Commission established under section 3;
- (d) repealed AR 101/2014 s2;
- (e) “eligible producer” means a producer who paid the service charge due under the *Alfalfa Seed Commission Regulation* in the current or preceding calendar year;
- (f) “eligible producer entity” means an eligible producer that is
 - (i) a partnership as defined in the *Partnership Act*;
 - (ii) an unincorporated organization that is not a partnership referred to in subclause (i);
 - (iii) a 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);

- (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) “producer” includes a person who is entitled, pursuant to a crop share arrangement, to a share of alfalfa seed;
- (h) “regulated product” means alfalfa seed;
- (i) “representative” means the representative of an eligible producer entity as provided for in section 12;
- (j) “special Commission meeting” means a special meeting of the eligible producers.

AR 181/2009 s1;28/2011;101/2014

Part 1 Plan

Designation of agricultural product

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

Establishment of Plan and Commission

3(1) The Alfalfa Seed Plan is established.

(2) The Alfalfa Seed Commission is established.

Application

4(1) This Plan applies to alfalfa seed.

(2) This Plan does not apply to the production or marketing of the regulated product in the Alberta Peace Region as it is described in the Schedule to the *Alberta Peace Region Forage Seed Growers Plan Regulation* (AR 91/2004).

Purpose of Plan

5 Under this Plan, the projects and programs the Commission may initiate or carry out to commence, stimulate, increase or improve the production and marketing of the regulated product may include

- (a) education and marketing,

- (b) studies and research and development,
- (c) advising and lobbying government, and
- (d) supporting and cooperating with other persons or governments, including electing or appointing individuals or contributing funds to that organization or an organization of that government.

Part 2 Requirements Respecting the Operation of the Plan

Power and duties of the Commission

6(1) Without limiting section 16(a) of the *Interpretation Act*, the Commission may

- (a) make rules or bylaws, including rules and bylaws
 - (i) governing elections, and
 - (ii) remuneration of the directors,
- and
- (b) delegate a power, duty or function of the Commission, excluding the power to make regulations.

(2) The Commission shall

- (a) maintain a list of eligible producers,
- (b) maintain records for the purposes of section 11(a) of the Act,
- (c) maintain an office in Alberta,
- (d) open a bank account with a financial institution,
- (e) when investing its assets, 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, and
- (f) establish policies respecting the management of its assets as required by the *Operation of Boards and Commissions Regulation* (AR 26/99).

(3) Subject to the requirement to refund service charges pursuant to section 7, the Commission may, to finance the purposes of the Plan, retain earnings and revenues from year to year.

AR 181/2009 s6;28/2011;101/2014

Financing of Plan

7 The Plan is to be financed

- (a) by the collection of a refundable service charge, and
- (b) by any other money payable to or received or accrued by the Commission.

AR 181/2009 s7;101/2014

Required meetings

8(1) The Commission shall hold an annual Commission meeting of all eligible producers in Alberta at least once each crop year and no later than 15 months after the previous annual Commission meeting.

(2) The Commission shall hold a special Commission meeting on the written request of

- (a) not less than 30% of the eligible producers,
- (b) a majority of the directors, or
- (c) the Council.

AR 181/2009 s8;101/2014

Notice of meetings

9(1) The Commission shall give notice to eligible producers of an annual or special Commission meeting

- (a) at least 21 days in advance of the meeting, and
- (b) in the form and manner determined by the Commission.

(2) The notice shall indicate the time, location, date and purpose of the meeting.

Auditor required

10 The Commission shall have an auditor and the auditor shall be appointed by the eligible producers from time to time at an annual or special Commission meeting.

Quorum

11(1) Repealed AR 101/2014 s6.

(2) Quorum at the annual Commission meeting or a special Commission meeting is at least 25 eligible producers.

(3) Repealed AR 101/2014 s6.

AR 181/2009 s11;101/2014

Use of representatives

12(1) An eligible producer may not use a representative to attend meetings, vote or hold office under this Regulation except in the case of an eligible producer entity.

(2) An eligible producer entity shall use a representative and that representative must

- (a) be an individual,
- (b) not be a representative of any other eligible producer entity for the purposes of this section, and
- (c) if representing an eligible producer that is
 - (i) a corporation, be a director, shareholder, member, officer or employee of the corporation,
 - (ii) a partnership, be a partner or employee of the partnership, or
 - (iii) an organization not referred to in clause (a) or (b), be a member, officer or employee of the organization.

(3) The eligible producer entity shall file a statement of appointment of its representative with the returning officer in the form and manner required by the Commission.

Part 3 Board of Directors

Commission

13(1) The Commission shall have a board of directors consisting of minimum of 5 to a maximum of 8 directors elected in accordance with this Regulation.

(2) The board shall elect from its members a chair and a vice-chair.

(3) Quorum at a board meeting is a majority of the directors who were elected to office at the time of the meeting.

(4) Despite subsection (3), quorum for the purposes of filling a vacancy on the board is a majority of the directors holding office at the time of the meeting or 3 directors, whichever is greater.

AR 181/2009 s13;101/2014

Removal of director

14(1) The board may remove a director from office if that director fails to attend 3 consecutive board meetings.

(2) The director subject to removal is not entitled to a vote on the matter of that director's removal from the board.

(3) The board may, on a motion passed by 3/4 of the directors currently in office at a board meeting, remove a director from office if the director fails to abide by any of the board's policies, administrative directives or orders.

AR 181/2009 s14;101/2014

Ceasing to hold office

15(1) An office holder ceases to hold office when the person's term expires or the person

- (a) ceases to be an eligible producer or the representative of an eligible producer entity,
- (b) resigns in writing, or
- (c) is removed from office.

(2) In the case of an eligible producer entity, the eligible producer entity is considered to hold office regardless of which person was originally elected as its representative to the board.

AR 181/2009 s15;101/2014

Vacancies

16(1) Where a director ceases to hold office before the expiry of that director's term, the board

- (a) may appoint an eligible producer who is an individual to hold office until an eligible producer is elected under clause (b), and
- (b) shall hold an election to fill the unexpired portion of the term, if any, no later than the next annual Commission meeting.

(2) An appointment under subsection (1)(a) is not valid unless it is approved by the Council.

AR 181/2009 s16;101/2014

Term of office (3 years)

17(1) The term of office for a director

- (a) commences on the conclusion of the annual Commission meeting at which the election results are declared, and
- (b) expires on the conclusion of the third annual Commission meeting after the director is elected.

(2) Repealed AR 101/2014 s12.

AR 181/2009 s17;101/2014

Maximum number of consecutive terms

18(1) The maximum number of consecutive terms a person may serve as a director is 2 terms.

(2) For the purposes of subsection (1), a person shall not be considered to have served a term on the board if the person was elected or appointed to fill a partial term for a period that did not exceed 18 months.

(3) A person who has served 2 consecutive terms cannot serve on the board until one year has elapsed from the end of the last term.

AR 181/2009 s18;101/2014

Part 4 Election of Commission

Election of Commission members

19(1) The election of the directors shall be

- (a) by a vote at the annual Commission meeting, or
- (b) by mail in ballot in accordance with section 21 before the annual Commission meeting.

(2) The election results shall be officially declared at the annual Commission meeting.

AR 181/2009 s19;101/2014

Nominations to stand for election

20(1) An eligible producer may stand for election if the eligible producer

- (a) consents, and
 - (b) is nominated by two eligible producers.
- (2)** A written nomination and consent must be
- (a) made in the form and manner required by the Commission, and
 - (b) signed by the nominating and consenting eligible producers.
- (3)** Despite subsection (2), an oral nomination and consent is permitted in the case of an election referred to in section 19(1)(a).

Election by mail ballot

- 21(1)** If an election is held by way of mail ballot,
- (a) the ballot shall be mailed to the last known address of each eligible producer no later than 30 days prior to the ballot closing date, and
 - (b) the ballot closing date fixed by the Commission must be no more than 42 days before the annual Commission meeting at which the election results will be declared.
- (2)** The election results will not be disclosed until they are officially declared under section 19(2).

Appointment of returning officer

- 22(1)** The Commission shall appoint a returning officer with respect to an election held under this Plan.
- (2)** The returning officer may appoint deputy returning officers.
- (3)** The returning officer, in respect of an election under this Plan,
- (a) may compile and maintain a voters list of persons who are eligible to vote
 - (i) as an eligible producer, or
 - (ii) as a representative of an eligible producer entity,
 - (b) shall ensure that an eligible producer does not cast a vote except in accordance with this Plan, and
 - (c) shall permit scrutiny of all actions of the returning officer and the deputy returning officers.

Voting

23(1) A person, whether or not the person is an eligible producer and a representative, may cast one vote per office being elected.

(2) A person is not entitled to vote unless

- (a) the person is named on the voters list as an eligible producer or the representative of an eligible producer entity, or
- (b) if the eligible producer or a representative of the eligible producer entity is not named on the voters list, the person, in the form and manner required by the Commission,
 - (i) provides a statutory declaration that indicates the person is an eligible producer or the representative of an eligible producer entity, and
 - (ii) if applicable, provides a statement of appointment as a representative.

Election by acclamation

24 If fewer than the minimum number of persons provided for by this Act stand for election, those persons shall be considered to be elected by acclamation.

Failure to elect

24.1 Where the registered producers at an annual commission meeting fail to elect directors, the board may, subject to section 16, appoint to the vacant positions registered producers who are eligible to hold those positions, and on being appointed to such a position a registered producer holds it as if elected to the position.

AR 101/2014 s15

Term of office re national or industry group or association

24.2 Notwithstanding section 18(3), a director, with the approval of Council, may be elected to serve an additional consecutive term in order to enable the Commission to fulfil its commitments to a national or industry group or association of which the Commission is a member.

AR 101/2014 s15

Destruction of ballots, etc.

25 No person shall destroy any records or ballots in respect of an election until 90 days have elapsed from the date of the election.

Election irregularities

26(1) An eligible producer may apply to the Council in writing to have an election declared invalid within 15 days of the election on the following grounds:

- (a) the eligibility of a candidate;
- (b) the eligibility of a voter;
- (c) a matter relating to a ballot or the tabulation of ballots;
- (d) an irregularity with respect to the conduct of an election.

(2) If an application is received in accordance with subsection (1), the Council shall declare an election invalid if the Council considers that

- (a) the candidate was not eligible, or
- (b) the matter complained of materially affected the result of the election.

(3) If an application is not received in accordance with subsection (1), the election is deemed to have been valid.

(4) If an election is declared invalid, the office shall be considered to be vacant and section 16 applies.

(5) If there is a vacancy on the board as a result of the operation of this section, the Council shall determine whether the new election to fill the unexpired portion of that term shall be held

- (a) at a special Commission meeting held before the next annual Commission meeting, or
- (b) at the next annual Commission meeting.

AR 181/2009 s26;101/2014

Review

27 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before July 31, 2019.

AR 181/2009 s27;101/2014



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