



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

ALBERTA PEACE REGION FORAGE SEED GROWERS PLAN REGULATION

Alberta Regulation 91/2004

With amendments up to and including Alberta Regulation 97/2013

Office Consolidation

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(Consolidated up to 97/2013)

ALBERTA REGULATION 91/2004

Marketing of Agricultural Products Act

**ALBERTA PEACE REGION FORAGE SEED
GROWERS PLAN REGULATION**

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Definitions

- 1 In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
(b) “Alberta Peace Region” means that part of Alberta that consists of the areas set out in the Schedule;
(c) “annual Commission meeting” means an annual general meeting of the directors and the eligible producers;

- (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) “B.C. Peace Region” means that part of British Columbia that is commonly referred to as the Peace Region;
- (e) “Commission” means the commission established under section 7 with the name the “Alberta Peace Region Forage Seed Growers”;
- (f) “Council” means the Alberta Agricultural Products Marketing Council;
- (g) “dealer” means a person purchasing or acquiring regulated product from a producer and includes, but is not limited to,
 - (i) the first receiver of the regulated product,
 - (ii) persons who are elevator companies, grain companies, grain dealers or seed cleaners, and
 - (iii) persons who acquire regulated product from the producer for sale on the producer’s behalf;
- (h) “director” means a director of the Commission;
- (i) “eligible producer” means a producer who qualifies as an eligible producer under section 16;
- (j) “fiscal year” means a year commencing on January 1 and concluding on December 31;
- (k) “forage and turf seed” means perennial grasses, annual ryegrasses and legumes grown to produce seed and includes both pedigreed and common seed;
- (k.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;
- (l) “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;
- (m) “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);
- (n) “producer” means a person who
 - (i) grows forage and turf seed for sale on one or more parcels of land located in the Alberta Peace Region, or
 - (ii) is entitled, pursuant to a crop share arrangement, to a share of forage and turf seed that is grown on the land located in the Alberta Peace Region;
- (o) “regulated product” means forage and turf seed;
- (p) “special Commission meeting” means a special general meeting of the directors and the eligible producers.

AR 91/2004 s1;28/2011

Designation of agricultural product

2 Forage and turf seed 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 There is hereby established a plan with the name “Alberta Peace Region Forage Seed Growers 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(1) This Plan applies

- (a) to only that part of Alberta that is the Alberta Peace Region;
- (b) to all producers in Alberta who
 - (i) produce the regulated product on land located in the Alberta Peace Region, or
 - (ii) market the regulated product within the Alberta Peace Region;
- (c) for the purposes of sections 9(a), (b), (c) and (f) and 12,
 - (i) to dealers within the Alberta Peace Region, and
 - (ii) to any persons who are not producers and who market or process the regulated product within the Alberta Peace Region.

(2) Notwithstanding subsection (1), this Plan does not apply to producers who do not produce the regulated produce within the Alberta Peace Region.

Purpose of Plan

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

- (a) to initiate and carry out projects or programs related to research and development and studies with respect to the production and handling of forage and turf seed, including research and development and studies concerning the development and use of forage and turf seed;
- (b) to assist, educate and inform producers, dealers and processors in developing and improving methods regarding the production and processing of forage and turf seed;
- (c) generally to assist in the development and promotion of the forage and turf seed industry in the Alberta Peace Region and in the B.C. Peace Region;

- (d) to advise governments on matters concerning the forage and turf seed industry;
 - (e) to co-operate with the Government of Canada, the Government of Alberta and the Government of British Columbia with respect to the maintenance of the quality and standards of the regulated product;
 - (f) to co-operate with the Peace Region Forage Seed Association and the British Columbia Grain Industry Development Council and other organizations involved in the forage seed industry in the Alberta Peace Region and the B.C. Peace Region.
- (2) Under this Plan neither the production nor the marketing of the regulated product is to be controlled or regulated.

AR 91/2004 s6;28/2011

Division 2

Operation of Plan by Commission

Establishment of Commission

7 There is hereby established a commission with the name "Alberta Peace Region Forage Seed Growers".

Functions of 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, treasury branch, credit union or other depository, and
 - (ii) designate such officers, employees and other persons as are necessary to transact the Commission's business;
- (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 enter into an operating line of credit or other loan agreement with its bank, trust company, treasury branch, credit union or other lending institution;
- (d) must cause such books and records, including financial records, to be maintained
 - (i) as from time to time may be required under the Act, the regulations or by virtue of any order of the Council, or
 - (ii) as may be determined by the Commission;
- (e) must maintain an office, the location of which, at all times, is to be made known to each eligible producer;
- (f) may appoint, or contract with, officers, employees and agents, prescribe their duties and fix 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 it may from time to time determine;
- (h) may become a member of any agricultural organization;
- (i) may contribute funds to any agricultural organization that has objectives similar to those of the Commission;
- (j) subject to a regulation made under section 9(e), to finance the purposes of the Plan, may retain earnings and revenues from year to year.

AR 91/2004 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 this Plan, and
 - (ii) the taking of legal action to enforce payment of the service charges;
 - (e) providing for the refund of service charges;
 - (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.

Financing of Plan

- 10(1)** In accordance with the regulations,
- (a) this Plan is to be financed by the charging and collection of service charges from producers;
 - (b) every producer engaged in production of the regulated product is to pay a service charge on each dollar, or part thereof, of regulated product sold by the producer;
 - (c) the Commission may, from time to time, change the amount of the service charge, but the change will not be effective until it has been approved by the eligible producers at an annual Commission meeting or a special Commission meeting.
- (2)** The amount of the service charge to be established initially after the coming into force of this Plan is to be established by the Commission but must be approved by the Council before it becomes effective.

Service charges refundable

11(1) In accordance with the regulations, the service charge is refundable to a producer on request of the producer.

(2) In the event that within the period of time that makes up a fiscal year

(a) the eligible producers requesting a refund of the service charge comprise more than 35% of existing eligible producers, and

(b) those eligible producers requesting a refund under clause (a) 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 approval by a majority of producers at a plebiscite to be held under the direction of the Council pursuant to the Act.

(3) The Commission must, within 90 days following the end of a fiscal year, report to the Council the refunds made under this section for that fiscal year.

AR 91/2004 s11;61/2011

12 Repealed AR 61/2011 s3.

Prohibition re funds under the Act

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.

Honorary memberships, etc.

15 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 Producers

Eligible producers

16 For the purposes of this Plan,

- (a) any producer who has paid a service charge under this Plan in a fiscal year is an eligible producer for that fiscal 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 fiscal year are to be included on the list of eligible producers for that fiscal year;
- (d) 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 fiscal year for which the application is made;
- (e) once a producer is listed with the Commission as an eligible producer, the producer continues to be recognized as an eligible producer from fiscal year to fiscal year, unless the eligible producer ceases to pay a service charge under this Plan in 4 subsequent fiscal years, in which case the producer ceases to be an eligible producer;
- (f) where a producer ceases to be an eligible producer under clause (e), the producer is entitled to again become an eligible producer for any fiscal year in which the producer pays a service charge under this Plan.

General rights of eligible producers

17 In accordance with this Plan, an eligible producer is entitled, as a matter of right,

- (a) to attend annual Commission meetings and special Commission meetings;
- (b) to make representations on any matter pertaining to this Plan, the Commission and the Board of Directors;
- (c) to vote on any matter under this Plan;

- (d) to vote in any election for directors;
- (e) to hold office as a director;
- (f) to vote in any plebiscites of producers held under the Act.

Eligible producers who are individuals

18 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 17.

Producers that are not individuals

19(1) Where an eligible producer is not an individual, that producer may, only in accordance with this section, exercise the rights of an eligible producer referred to in section 17.

(2) An eligible producer to which this section applies must appoint an individual to be the representative of the 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 of an eligible producer referred to in section 17.

(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

General Meetings of Eligible Producers

Annual Commission meetings

20(1) An annual Commission meeting must be held for the purposes of providing to the eligible producers

- (a) information with respect to the Commission, and
 - (b) an opportunity to provide to the Board of Directors suggestions and recommendations.
- (2) An annual Commission meeting must be held
- (a) once in each year, and
 - (b) within 15 months following the date of the commencement of the last annual Commission meeting.

Special Commission meetings

21 The Commission must hold a special Commission meeting

- (a) when requested to do so by the Council, or

- (b) on the written request of not less than 30% of the eligible producers.

Calling of meetings

22(1) The Commission must set the time, place and date of any annual Commission meeting or special Commission meeting.

(2) The Commission must,

- (a) in the case of an annual Commission meeting, notify the eligible producers of the annual Commission meeting at least 21 days before that meeting is to be held, and
- (b) in the case of a special Commission meeting, notify the eligible producers of the special Commission meeting at least 21 days before that meeting is to be held.

(3) Any notice of a meeting must set forth the time, place, date and purpose of the meeting.

(4) Where the Commission provides a notice under this section, the Commission may do so in any form or manner that the Commission considers appropriate in the circumstances.

Quorum

23 At an annual Commission meeting or special Commission meeting the quorum necessary for the conduct of business is 25 eligible producers.

Division 3 Directors

Board of Directors

24 The Commission shall have a Board of Directors consisting of 3 eligible producer directors.

Responsibilities of the Board of Directors

25(1) The responsibilities of the Commission, the authority delegated to the Commission by the Council and the direction, administration and management of the Commission's work, business and affairs, including the control and management of all the assets owned, held or acquired by the Commission, are vested in the Board of Directors.

(2) The Board of Directors has the power to do all things necessary to carry out the purposes of this Plan and the responsibilities and authority of the Commission.

(3) The Board of Directors may authorize any person, entity or committee to exercise any of the powers of the Board of Directors as set forth in this Plan or otherwise.

(4) Where a person, entity or committee is authorized under subsection (3) to exercise any power of the Board of Directors,

- (a) that person, entity or committee shall report back to the Board of Directors with respect to the exercise of that power, and
- (b) the Board of Directors shall retain a supervisory function to oversee the actions of that person, entity or committee in the exercise of that power.

Chair, etc.

26(1) Following the annual Commission meeting in each year, the directors shall elect from among the directors the officers of the Commission, including a chair and a vice-chair of the Board of Directors.

(2) The remuneration to be paid to the directors and officers of the Commission may be fixed from time to time by the Board of Directors.

Term of office

27(1) The directors may hold office for 3 years.

(2) The term of office of a director

- (a) commences on the conclusion of the annual Commission meeting that takes place following the director's election, 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.

Removal from office

28(1) An individual ceases to be a director if that individual

- (a) resigns from the position of director;
- (b) ceases to be an eligible producer;
- (c) in the case of the individual being the representative of an eligible producer under section 19, ceases to be the representative of the eligible producer;

(d) is absent from 3 consecutive meetings of the Board of Directors without reasons that the Board of Directors considers adequate.

(2) Where a vacancy occurs on the Board of Directors under this section, the Board of Directors may, with the approval of the Council, appoint an individual to fill the position from among the eligible producers who are eligible to be elected as a director.

(3) Where an individual is appointed as a director under subsection (2), that director is to serve for the unexpired portion of the term.

(4) If an individual who

- (a) is appointed as a director under subsection (2),
- (b) is appointed or elected as a director under section 36, or
- (c) is elected as a director under section 37,

serves for a term of 18 or fewer months, that period of time served is not to be considered as a term of office in determining whether that individual may stand for election as a director.

Election of directors

29(1) The elections for directors are to be conducted, subject to section 36(5), at the annual Commission meeting.

(2) The Commission is to solicit nominations for the position of director

- (a) by publishing a notice in the Commission's newsletter, or
- (b) by such means, other than that referred to in clause (a), as the Commission may determine.

(3) Nominations for the position of director must be

- (a) in writing and filed at the Commission's office by a date fixed by the Commission,
- (b) signed by at least 2 eligible producers, and
- (c) accompanied by the written consent of the eligible producer who is being nominated as a director.

(4) Notwithstanding subsection (3), a nomination for the position of director may be made on the floor at the meeting at which the election for the position is to be conducted if the nomination

- (a) is seconded by at least 2 eligible producers present at that meeting, and
- (b) the eligible producer being nominated gives his or her oral consent to being nominated.

Election of director by mail ballot

30(1) Notwithstanding section 29(1), the Commission may direct that the election of a director be carried out by means of a mail ballot.

(2) Where an election is to be carried out by means of a mail ballot,

- (a) subsections (2) and (3) but not (4) of section 29 apply to the election;
- (b) the mail ballot must be designed for a secret vote;
- (c) the election must be conducted in such a manner so as to ensure a secret vote;
- (d) a mail ballot must be made available to each eligible producer by being mailed to each eligible producer at least 30 days prior to the ballot closing date;
- (e) the ballot closing date,
 - (i) is to be fixed by the Commission, and
 - (ii) must be a date that is within 42 days immediately preceding the annual Commission meeting.

(3) If the eligible producers fail to elect a director by means of a mail ballot, the election of the director is to be held at the next annual Commission meeting that is held after the time at which election by means of a mail ballot was to have been held.

Eligibility re director

31(1) To be eligible to be a director a person must be an eligible producer.

(2) An eligible producer is not eligible to serve as a director for more than 3 consecutive terms of office.

(3) Notwithstanding subsection (2), an eligible producer who was a director is once again eligible to serve as a director if one year has elapsed since that eligible producer's last term as a director has concluded.

Quorum

32(1) At a meeting of the Board of Directors the quorum necessary for the conduct of business is a majority of the directors holding office at the time.

(2) In determining a quorum under subsection (1), vacant positions on the Board of Directors shall not be considered.

Part 3

Voting and Elections

Eligibility to vote

33(1) An eligible producer is eligible

- (a) to vote on any question put to a vote at an annual Commission meeting or a special Commission meeting if the eligible producer is present at the meeting at which the vote is held;
- (b) to vote in any election for a director that is conducted at an annual Commission meeting if the eligible producer is present at the meeting at which the election is conducted;
- (c) to vote in any election for a director that is conducted by means of a mail ballot.

(2) An eligible producer, irrespective as to whether the eligible producer is or is not an individual, may vote once only on each matter put to a vote.

(3) An eligible producer may vote once on each matter put to a vote, notwithstanding that the eligible producer may manage or operate or own, lease or hold equity in 2 or more operations.

Must be on list of eligible producers

34 An eligible producer is entitled to cast a vote under this Plan only if that producer's name appears on the current list of eligible producers.

Returning officer

35(1) The Commission shall 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 shall
- (a) compile and maintain a voters list of eligible producers who are entitled to vote under this Plan,
 - (b) ensure that a person does not cast a vote, except in accordance with this Plan, and
 - (c) 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.
- (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**36(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,

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

- (2)** If, within the 15-day period referred to in subsection (1), the Council has not received an application under subsection (1), a person elected at that election is deemed to be duly elected.
- (3)** On receipt of an application under subsection (1), the Council shall consider the matter and may
- (a) declare the election to be proper and the position filled, if, in the opinion of the Council, there is no basis for the application,

- (b) declare the election to be proper and the position filled, notwithstanding that there is a basis for the application, if, in the opinion of the Council,
 - (i) the basis for the application did not materially affect the result of the election, and
 - (ii) the election was conducted substantially in accordance with this Plan and the Act,

or

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

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

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

- (a) 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), that person shall serve for the unexpired portion of the term.

Part 4 Transitional Provision, Review and Repeal

37 Repealed AR 61/2011 s4.

Review

38 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before May 31, 2016.

AR 91/2004 s38;61/2011

Schedule**Alberta Peace Region**

The Alberta Peace Region consists of those areas of Alberta that are included in the following municipalities:

- (a) County of Grande Prairie No. 1;
- (b) Northern Sunrise County;
- (c) Municipal District of Big Lakes;
- (d) Clear Hills County;
- (e) County of Northern Lights;
- (f) Mackenzie County;
- (g) Municipal District of Greenview No. 16;
- (h) Municipal District of Smoky River No. 130;
- (i) Birch Hills County;
- (j) Municipal District of Spirit River No. 133;
- (k) Saddle Hills County;
- (l) Municipal District of Fairview No. 136;
- (m) Municipal District of Peace No. 135;
- (n) any city, town, village or summer village that is encompassed by the area described in clauses (a) to (m).

AR 91/2004 Sched.;61/2011



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