

**ALBERTA REGULATION 171/2018**  
**Marketing of Agricultural Products Act**  
**POTATO GROWERS OF ALBERTA**  
**PLEBISCITE REGULATION**

**Definitions**

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

- (a) “2018 crop year” means the period between January 1, 2018 and December 31, 2018;
- (b) “Act” means the [Marketing of Agricultural Products Act](#);
- (c) “area meeting” means an area meeting as described in [section 27](#) of the [Potato Growers of Alberta Plan Regulation \(AR 291/2002\)](#);
- (d) “date of the plebiscite” means November 15, 2018;
- (e) “Department” means the department under the Minister responsible for the Act;
- (f) “eligible producer” means a producer who is described in [section 3\(1\)\(a\)](#);
- (g) “non-refundable”, in respect of a service charge, means not to be refunded;
- (h) “Plan” means the Plan continued by the [Potato Growers of Alberta Plan Regulation \(AR 291/2002\)](#);
- (i) “plebiscite” means a plebiscite that is conducted pursuant to this Regulation;
- (j) “polling station” means a place where an eligible producer or a person appointed as a proxy for an eligible producer votes in the plebiscite in person;
- (k) “refundable”, in respect of a service charge, means refundable in whole or in part at a producer’s request;
- (l) “regulated product” means potatoes;
- (m) “scrutineer” means a person appointed as a scrutineer under [section 11](#);
- (n) “service charge” means a service charge that is paid to the Commission by or on behalf of a producer.

**(2)** Words defined in the Act or the Plan have the same meaning when used in this Regulation.

**Plebiscite**

**2** The Council shall conduct a plebiscite to determine whether the service charges that are payable to the Commission should be

- (a) non-refundable, or
- (b) refundable.

**Criteria for plebiscite**

**3(1)** For the purpose of the plebiscite,

- (a) an eligible producer is a person who

- (i) is a licensed producer during the 2018 crop year, and
  - (ii) is an individual or an individual representing a partnership, a corporation or an organization that is not a partnership or a corporation,
- (b) a sufficient number of eligible producers is not less than 35% of the total number of eligible producers on the date of the plebiscite, and
  - (c) a sufficient portion of the regulated product is not less than 50% of the total amount of the regulated product that is marketed or that is capable of being produced during the 2018 crop year.
- (2) For the purpose of the plebiscite, a partnership, a corporation or an organization that is not a partnership or a corporation may have only one individual as a representative.

**Voting**

- 4(1) An eligible producer or a person appointed as a proxy under [section 5](#) may vote in the plebiscite.
- (2) Subject to [section 5\(3\)](#), an eligible producer or a person appointed as a proxy may vote only once in the plebiscite.
- (3) A person who holds more than one licence issued by the Commission may vote only once in the plebiscite.

**Voting by proxy**

- 5(1) An eligible producer may appoint a person as a proxy to vote on the eligible producer's behalf if
- (a) the person to be appointed as a proxy is 18 years of age or older, and
  - (b) the eligible producer submits a proxy form to the returning officer at least 2 days before the date of the plebiscite.
- (2) A person may not be appointed as a proxy for more than one eligible producer in respect of the plebiscite.
- (3) If a person appointed as a proxy is also an eligible producer, the person is entitled to vote in the person's own right as an eligible producer and on behalf of the eligible producer who appointed the person as a proxy.

**Returning officer**

- 6(1) The Council shall appoint a returning officer for the purpose of the plebiscite.
- (2) For the purpose of the plebiscite, the returning officer may appoint deputy returning officers and poll clerks to act on behalf of the returning officer.
- (3) The returning officer shall
- (a) set the form of the ballot and other plebiscite documents,
  - (b) arrange for the printing of ballots and other plebiscite documents,
  - (c) obtain from the Commission
    - (i) a complete list of the names and addresses of the licensed producers who produced the regulated product during the 2018 crop year, and
    - (ii) the total amount of the regulated product that was marketed or that was capable of being produced during the 2018 crop year,
  - (d) when satisfied as to the accuracy and completeness of the list obtained under clause (b), adopt the list as the voters list,
  - (e) make available to every person on the voters list a plebiscite voting package that contains
    - (i) a letter of explanation,
    - (ii) the voting procedure,

- (iii) a ballot,
- (iv) a proxy form, and
- (v) any other documents that the returning officer considers appropriate,

and

- (f) at the Commission's annual meeting at Enoch, Alberta, establish a polling station on the date of the plebiscite, so that eligible producers or their appointed proxies may register, receive ballots and cast ballots.

(4) The returning officer may issue directions and take other actions that the returning officer considers necessary for the proper conduct of the plebiscite.

#### **Declaration of plebiscite**

7(1) The Council shall declare the holding of the plebiscite at least 15 days before the date of the plebiscite.

(2) The declaration must contain the following information:

- (a) the plebiscite question;
- (b) the means by which information and documents respecting the matter to be voted on may be obtained;
- (c) the date, time and location of each polling station at which voting will take place;
- (d) the voting procedures.

(3) The declaration must be

- (a) published on the Department's website and the Commission's website, and
- (b) sent to the last known physical or electronic address of each eligible producer in the records of the Commission.

#### **Information sessions**

8(1) At each area meeting between October 22, 2018 and October 24, 2018, the Commission shall conduct an information session for the purpose of informing eligible producers of the matter to be voted on in the plebiscite and the plebiscite voting procedures.

(2) The returning officer shall publicize the date, time and location of each information session.

#### **Registration**

9(1) For the purpose of the plebiscite, an eligible producer is voluntarily registered with the Council if

- (a) the returning officer verifies the eligible producer's identity in accordance with subsection (3),
- (b) the returning officer is satisfied that the eligible producer's name appears on the voters list, and
- (c) the eligible producer signs for and receives a ballot from the returning officer not later than 3:00 p.m. on the date of the plebiscite.

(2) Despite subsection (1), an eligible producer who has appointed a person as a proxy under [section 5](#) is voluntarily registered with the Council if

- (a) the returning officer verifies the proxy's identity in accordance with subsection (3),
- (b) the returning officer is satisfied that the eligible producer who has appointed the proxy
  - (i) is on the voters list, and

(ii) has submitted a proxy form to the returning officer,

and

(c) the proxy signs for and receives a ballot from the returning officer not later than 3:00 p.m. on the date of the plebiscite.

(3) An eligible producer or a person appointed as a proxy must produce to the returning officer proof of the identity and current address of the eligible producer or the proxy in the form of

(a) one piece of identification issued by a Canadian government, whether federal, provincial or local, or an agency of that government, that contains the name and the current address of the eligible producer or the proxy and a photograph of the eligible producer or the proxy, or

(b) 2 pieces of identification authorized by the returning officer each of which contain the name of the eligible producer or the proxy and at least one of which establishes the current address of the eligible producer or the proxy.

#### **Holding of plebiscite**

**10** The Council shall be considered to have caused a plebiscite to have been held, and the returning officer must, subject to this Regulation, count the ballots cast in the plebiscite, if

(a) a sufficient number of eligible producers as prescribed under [section 3\(1\)\(b\)](#) have voluntarily registered with the Council under [section 9](#), and

(b) the eligible producers who have registered with the Council under [section 9](#) are collectively capable of producing a sufficient portion of the regulated product as prescribed under [section 3\(1\)\(c\)](#).

#### **Scrutineers**

**11(1)** The returning officer may appoint one or more scrutineers to observe the plebiscite process at a polling station while the poll is open for voting.

(2) An eligible producer who wishes to become a scrutineer shall apply to the returning officer at least 7 days before the date of the plebiscite.

(3) The returning officer shall establish a code of conduct for scrutineers.

(4) A scrutineer shall comply with the code of conduct, and a scrutineer who fails to comply with the code of conduct may be removed from the polling station.

#### **Polling stations**

**12** The following persons may be present at a polling station while the poll is open for voting:

(a) the returning officer;

(b) the deputy returning officer;

(c) the poll clerk;

(d) any eligible producers intending to vote;

(e) any proxies intending to vote;

(f) a representative of the Council;

(g) a representative of the Commission;

(h) any scrutineers appointed under [section 11](#) by the returning officer in respect of the polling station;

(i) a person who is present at the request of the returning officer or the deputy returning officer to maintain order in the polling station.

#### **Ballot count**

**13(1)** The returning officer shall, after 3:30 p.m. on the date of the plebiscite, open the ballot box and count the ballots in the presence of at least 2 other persons, one of whom represents the Council and one of whom represents the Commission.

**(2)** The returning officer must reject any ballot

- (a) that is received after 3:30 p.m. on the date of the plebiscite,
- (b) that has not been supplied by the returning officer,
- (c) that, in the opinion of the returning officer, does not clearly indicate the voter's choice, or
- (d) that, in the opinion of the returning officer, appears to have been tampered with.

**(3)** A scrutineer may be present while the ballots are being counted, with the prior approval of the returning officer.

#### **Reporting results**

**14(1)** The returning officer shall

- (a) announce the results of the vote prior to the close of the meeting on the date of the plebiscite, and
- (b) report the results of the vote to the Minister, the Council and the Commission within one day after the ballots have been counted.

**(2)** The Council shall publish the results of the vote on the Council's website within 3 days after the returning officer reports the results under subsection (1).

#### **Recount**

**15(1)** The returning officer shall conduct a recount if there is a difference in the result of the plebiscite of less than 1%.

**(2)** The recount shall be conducted by the returning officer as soon as is practicable.

**(3)** A scrutineer may be present during the recount with the prior approval of the returning officer.

**(4)** The returning officer shall report the results of the recount to the Minister, the Council and the Commission within one day after the recount is conducted.

**(5)** The Council shall publish the results of the recount on the Council's website within 3 days after the returning officer reports the results under subsection (4).

#### **Contesting a matter**

**16(1)** An eligible producer who is on the voters list may apply in writing to the returning officer to contest

- (a) the eligibility of a voter,
- (b) any matter relating to a ballot or the ballot count, or
- (c) any irregularity with respect to the conduct of the plebiscite.

**(2)** An application to contest a matter under subsection (1) must be made to the returning officer by November 29, 2018.

**(3)** Within 7 days after receiving an application, the returning officer shall consider the matter and may

- (a) declare the plebiscite to be proper and the question decided if, in the opinion of the returning officer, there is no basis for the application,
- (b) declare the plebiscite to be proper and the question decided, notwithstanding that there is a basis for the application if, in the opinion of the returning officer,
  - (i) the basis for the application did not materially affect the result of the plebiscite,
  - (ii) the plebiscite was conducted substantially in accordance with this Regulation and the Act,

or

- (c) declare the plebiscite to be void and the question undecided if, in the opinion of the returning officer, there is a basis for the application and the basis is sufficient to, or did, affect the result of the plebiscite.

**Audit**

**17(1)** The Council may conduct an audit respecting any matter relating to the plebiscite process or the results of the plebiscite.

**(2)** An audit under subsection (1) may be conducted on the Council's own initiative or at the request of the returning officer.

**(3)** The Council shall not require an audit after the ballots have been destroyed under [section 18](#).

**Destruction of ballots**

**18** The returning officer shall destroy all ballots on or after the 90th day after the results of the plebiscite are reported under [section 14](#), unless otherwise directed by a court or the Council.

**Substantial compliance**

**19** A proceeding that is in substantial compliance with this Regulation is not open to objection on the ground that it is not in strict compliance with this Regulation.

**Expiry**

**20** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on November 30, 2019.