

Farm Products Marketing Act

**ONTARIO REGULATION 403/10**

**HOGS — PLAN**

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### General

### Definitions

#### 1. In this Regulation,

“approved association” means an association of one or more producers whose constitution has been approved by the local board under section 9; (“association approuvée”)

“association area” means, in respect of each approved association, the area within a hog producing zone that is described in the association’s constitution as belonging to the association; (“territoire”)

“delegate” means a delegate to a zone council elected under this Regulation; (“délégué”)

“hog producing zone” means a hog producing zone set out in section 6; (“zone de production porcine”)

“hogs” means domestic swine produced in Ontario; (“porc”)

“producer” means a person engaged in the production of hogs; (“producteur”)

“zone council” means a zone council established for each hog producing zone under this Regulation. (“conseil de zone”) O. Reg. 403/10, s. 1.

### Plan

2. This Regulation sets out the plan for the control and regulation of the producing and marketing of hogs in Ontario. O. Reg. 403/10, s. 2.

## Local Board

### Local board continued

3. (1) The local board known as the “Ontario Pork Producers’ Marketing Board” is continued. O. Reg. 403/10, s. 3 (1).

(2) Despite subsection (1),

(a) elections of members of the local board shall be held in 2011 to bring the composition of the board into compliance with section 5 and to elect members from the hog producing zones established under section 6; and

(b) the members of the local board who are in office on January 1, 2011 shall hold office until their successors take office in 2011. O. Reg. 403/10, s. 3 (2).

### Powers of the local board

4. (1) The local board has the authority, and shall exercise the powers and perform the duties,

(a) that the Commission delegates to it under the Act; and

(b) that are given or assigned to it by this Regulation and by any other applicable regulation. O. Reg. 403/10, s. 4 (1).

(2) The local board has the following powers:

1. The local board has such powers of a natural person as are necessary for the local board to exercise its other powers and perform its duties under the Act or any other Act of Ontario or Canada, subject to any limitations set out in this Regulation or any other regulation that applies to the local board.

2. The local board may accept extra-provincial powers and rights.

3. Where authorized by by-law, and subject to Regulation 400 of the Revised Regulations of Ontario, 1990 (By-laws for Local Boards) made under the Act, the local board may,

i. borrow money on the credit of the local board,

ii. issue, sell or pledge debt obligations of the local board, or

iii. charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal movable or immovable property of the local board, including book debts, rights, powers, franchises and undertakings, to secure any debt obligations or any money borrowed or other debt or liability of the local board. O. Reg. 403/10, s. 4 (2).

(3) The local board shall not,

(a) establish or acquire a controlling interest in a corporation or other entity;

(b) exercise its powers and perform its duties, or purport to do so, through a corporation or other entity; or

(c) indemnify or agree to indemnify any person in relation to any action or other proceeding except as permitted by Regulation 400 of the Revised Regulation of Ontario, 1990 (By-laws for Local Boards) made under the Act. O. Reg. 403/10, s. 4 (3).

#### Composition of local board

5. (1) The local board shall be composed of nine board members. O. Reg. 403/10, s. 5 (1).

(2) The board members shall be elected or appointed in accordance with section 18 from the four hog producing zones established by section 6 as follows:

1. Three board members from Zone 1.
2. Three board members from Zone 2.
3. Two board members from Zone 3.
4. One board member from Zone 4. O. Reg. 403/10, s. 5 (2).

(3) Despite subsections (1) and (2), the local board continued under section 2 shall be composed in accordance with sections 3, 4, 5 and 6 of the Schedule to Regulation 420 of the Revised Regulations of Ontario, 1990 (Hogs — Plan) made under the Act until the members of the local board take office under this Regulation in 2011. O. Reg. 403/10, s. 5 (3).

#### Hog Producing Zones and Association Areas

##### Hog producing zones

6. (1) For the purposes of elections to the local board, the following hog producing zones are established:

1. Zone 1, composed of the geographic areas of Chatham-Kent, Elgin, Essex, Huron, Lambton and Middlesex.

2. Zone 2, composed of the geographic areas of Brant, Haldimand, Hamilton, Niagara, Norfolk, Oxford, Perth and Waterloo.

3. Zone 3, composed of the geographic areas of Algoma, Bruce, Cochrane, Dufferin, Grey, Halton, Kenora, Manitoulin, Muskoka, Nipissing, Parry Sound, Peel, Rainy River, Simcoe, Sudbury, Thunder Bay, Timiskaming, Toronto, Wellington and York.

4. Zone 4, composed of the geographic areas of Durham, Frontenac, Haliburton, Hastings, Kawartha Lakes, Lanark, Leeds and Grenville, Lennox and Addington, Northumberland, Ottawa, Peterborough, Prescott and Russell, Prince Edward, Renfrew and Stormont, Dundas and Glengarry. O. Reg. 403/10, s. 6 (1); O. Reg. 41/11, s. 1.

(2) In subsection (1),

“geographic area” means a geographic area under the Territorial Division Act, 2002. O. Reg. 403/10, s. 6 (2).

#### Association areas

7. (1) Each hog producing zone shall include one or more association areas, as described in the constitutions of the approved associations. O. Reg. 403/10, s. 7 (1).

(2) Copies of the constitutions of approved associations shall be kept by the local board and made available to the public for inspection. O. Reg. 403/10, s. 7 (2).

#### Zone Councils and Representation of Associations

##### Zone councils to be established

8. (1) A zone council shall be established in accordance with this section for each hog producing zone. O. Reg. 403/10, s. 8 (1).

(2) Each zone council shall be composed of delegates elected by the approved associations whose association areas are located in the zone, based on a system of allotment of delegates described in section 10. O. Reg. 403/10, s. 8 (2).

(3) The number of delegates on a zone council may vary with each council election, depending on the allotment of delegates carried out under section 10 before the election. O. Reg. 403/10, s. 8 (3).

(4) Once the allotment of delegates to each approved association is determined under section 10, the election of the delegates to the zone council shall be carried out in accordance with sections 12 to 19. O. Reg. 403/10, s. 8 (4).

#### Approval of associations' constitutions

9. (1) An association of one or more producers shall not be allotted delegates for purposes of an election of a zone council unless,

(a) the association's constitution is approved by the local board under subsection (5); and

(b) the association's association area, as described in its constitution,

(i) is located entirely within the zone council's hog producing zone, and

(ii) does not overlap with the association area of another approved association. O. Reg. 403/10, s. 9 (1).

(2) An association of one or more producers that wishes to have its constitution approved by the local board shall submit an application for approval of the constitution to the local board, together with a copy of its constitution. O. Reg. 403/10, s. 9 (2).

(3) The application shall be in a form provided by the local board. O. Reg. 403/10, s. 9 (3).

(4) Subject to this section, the procedures for approving the constitutions of associations of producers shall be determined by the local board. O. Reg. 403/10, s. 9 (4).

(5) The local board may approve the constitution of an association of producers if,

(a) the local board is satisfied that the objectives of the association as set out in its constitution demonstrate an intention to effectively promote the welfare of the pork industry in the association area; and

(b) the association area as described in the association's constitution meets the requirements of clause (1) (b). O. Reg. 403/10, s. 9 (5).

(6) An approved association shall not make any changes to its constitution, including any changes to the description of the association area, unless the changes are first approved by the local board. O. Reg. 403/10, s. 9 (6).

(7) Subsections (3), (4) and (5) apply with necessary modifications to an approval under subsection (6) of a change to an approved association's constitution. O. Reg. 403/10, s. 9 (7).

(8) Despite subsections (1) to (5), a County Pork Producers Association that elected one or more councillors to the District Pork Producers Council for its district in the last district election held before January 1, 2011 under Regulation 420 of the Revised Regulations of Ontario, 1990 (Hogs — Plan) made under the Act is deemed on and after January 1, 2011 to be an approved association for the purposes of this Regulation. O. Reg. 403/10, s. 9 (8).

(9) Despite subsections (1) to (5), if two or more County Pork Producers Associations amalgamated under section 15 of Regulation 420 of the Revised Regulations of Ontario, 1990 before January 1, 2011 and elected one or more councillors to the District Pork Producers Council for their district in the last district election held before that date under Regulation 420 of the Revised Regulations of Ontario, 1990, the amalgamated association shall be deemed to be an approved association for the purposes of this Regulation. O. Reg. 403/10, s. 9 (9).

(10) An association that is deemed to be an approved association under subsection (8) or (9) shall provide a copy of its constitution to the local board as soon as practicable after January 1, 2011 unless a current copy of the constitution was provided to the board before that date. O. Reg. 403/10, s. 9 (10).

#### Allotting delegates

10. (1) Before the beginning of an election year for a hog producing zone, the local board shall,

(a) determine the number of delegates, if any, that shall be allotted in accordance with this section to each approved association with an association area in the zone; and

(b) inform each approved association of the number of delegates that are allotted to it in respect of the election. O. Reg. 403/10, s. 10 (1).

(2) The allotment described in subsection (1) shall be based on statistical information respecting the 12-month period ending on November 30 of the year preceding the election year. O. Reg. 403/10, s. 10 (2).

(3) Subject to subsections (4) and (5), the number of delegates to be allotted to each approved association shall be determined by multiplying 100 by the sum of,

(a) 60 per cent of the proportion of the number of producers who are registered under section 11 as members of the approved association on the preceding November 30 to the total number of producers who are registered on that date as members of the approved associations for all four hog producing zones; and

(b) 40 per cent of the proportion of the number of hogs marketed in the approved association's association area during the 12-month period ending on the preceding November 30 to the total number of hogs marketed from all zones during that period. O. Reg. 403/10, s. 10 (3).

(4) At least one delegate shall be allotted to an approved association if, on or before November 30 of the year preceding the election year, at least five producers have registered under section 11 as a member of that association. O. Reg. 403/10, s. 10 (4).

(5) The local board shall not allot a delegate to an approved association that has fewer than five members registered under section 11. O. Reg. 403/10, s. 10 (5).

(6) Despite subsection (5), the local board may allot one delegate to an approved association described in that subsection if,

(a) the association submits to the local board a document known as a plan for effective organization; and

(b) the plan referred to in clause (a) demonstrates to the board that, despite its small membership, the association is able to effectively promote the welfare of the pork industry in the association area. O. Reg. 403/10, s. 10 (6).

## Registration as member of association

11. (1) In order for the local board to allot the appropriate number of zone council delegates to each approved association, every producer shall register as a member of an approved association by filing with the local board a registration form provided by the local board. O. Reg. 403/10, s. 11 (1).

(2) A producer is eligible to register as a member of an approved association if the producer is connected to the association's association area in any of the following ways:

1. The producer is an individual who resides in the association area.

2. The producer owns hogs produced on a property in the association area.

3. The producer owns or is the tenant of property in the association area and,

i. hogs are produced on the property by the producer, or

ii. hogs are produced on the property under contract for a third party. O. Reg. 403/10, s. 11 (2).

(3) A producer who is not connected to an association area in any of the ways described in subsection (2) is eligible to register as a member of any approved association in a hog producing zone if the producer is connected to the hog producing zone in any of the following ways:

1. The producer is an individual who resides at a location that is within the zone but that is not within an association area.

2. The producer owns hogs produced on a property that is in the zone but that is not within an association area.

3. The producer owns or is the tenant of property that is in the zone but that is not within an association area and,

i. hogs are produced on the property by the producer, or

ii. hogs are produced on the property under contract for a third party. O. Reg. 403/10, s. 11 (3).

(4) If a producer is eligible to register as a member of more than one approved association under subsection (2) or under subsection (3), the producer may register as a member of only one approved association. O. Reg. 403/10, s. 11 (4).

(5) A producer who is eligible to register as a member of more than one approved association under subsection (2) or (3) and who has registered as a member of one of those associations may, at any time, change his or her association membership and become a member of another approved association for which he or she is eligible to register as a member by notifying the local board in writing of the change of association membership. O. Reg. 403/10, s. 11 (5).

(6) If an approved association is about to elect delegates to its zone council and a producer changes association membership in accordance with subsection (5) in order to become a member of that association, the producer shall not be entitled to participate in the zone council election as a member of the association unless he or she gives the notice of change required under subsection (5) on or before January 1 of the election year. O. Reg. 403/10, s. 11 (6).

(7) A producer's registration as a member of an approved association expires if the producer ceases to meet the eligibility rule set out in subsection (2) or (3) with respect to that association. O. Reg. 403/10, s. 11 (7).

(8) A producer who was registered on December 31, 2010 as a member of a County Pork Producers Association is deemed, on and after January 1, 2011, to be registered as a member of the approved association whose association area corresponds to the boundaries of the County Pork Producers Association. O. Reg. 403/10, s. 11 (8); O. Reg. 41/11, s. 2.

## Zone Council Elections

### Initial and subsequent zone council elections

12. (1) Elections shall be held in all four hog producing zones in 2011 so that the first zone councils may be established. O. Reg. 403/10, s. 12 (1).

(2) The delegates elected or appointed to zone councils in 2011 shall hold office for the following term:

1. The delegates to the zone council for Zone 1 shall hold office for a three-year term.

2. The delegates to the zone council for Zone 2 shall hold office for a two-year term.

3. The delegates to the zone councils for Zones 3 and 4 shall hold office for a one-year term. O. Reg. 403/10, s. 12 (2).

(3) The election of the second zone councils in the four hog producing zones shall be held so as to replace or re-elect the delegates whose term of office expires, as follows:

1. In Zone 1, the second zone council elections shall be held in 2014.

2. In Zone 2, the second zone council elections shall be held in 2013.

3. In Zones 3 and 4, the second zone council elections shall be held in 2012. O. Reg. 403/10, s. 12 (3).

(4) Delegates elected or appointed to second and subsequent zone councils shall hold office for three-year terms and, after the election of the second zone councils in accordance with subsection (3), elections of zone councils shall be held every three years in each hog producing zone. O. Reg. 403/10, s. 12 (4).

#### Fixing election dates

13. (1) If an election of the zone council for a hog producing zone is to be held in any given year, every approved association with an association area in the zone that has been allotted a delegate under section 10 shall, on or before January 1 of that year, fix a date and place for a meeting of the association in order to elect delegates. O. Reg. 403/10, s. 13 (1).

(2) An approved association shall notify the local board of the date and place that it fixes under subsection (1). O. Reg. 403/10, s. 13 (2).

(3) If an approved association does not fix a date and place under subsection (1), the local board shall, no later than January 31, fix the date and place for the meeting. O. Reg. 403/10, s. 13 (3).

(4) The date fixed under subsection (1) or (3) shall be no later than February 15. O. Reg. 403/10, s. 13 (4).

(5) At least 10 days before the date fixed for a meeting to elect delegates, an approved association shall give notice to the producers who are registered as members of the association of the date, time and place of the meeting,

(a) by giving written notice to each producer; or

(b) by publishing notice in a newspaper or periodical of general circulation among the producers. O. Reg. 403/10, s. 13 (5).

(6) If an approved association does not give the notice required by subsection (5), the local board shall give the required notice by publishing or posting, at the local board's expense, the notices that it considers necessary or advisable. O. Reg. 403/10, s. 13 (6).

#### Election by associations

14. (1) At a meeting of an approved association scheduled in accordance with section 13, the producers who are registered as members of the association shall elect, in accordance with this section, the number of delegates to the zone council that the local board allotted to the association under section 10 for the election. O. Reg. 403/10, s. 14 (1).

(2) Each producer who is registered as a member of the approved association is entitled to two votes at the meeting. O. Reg. 403/10, s. 14 (2).

(3) The producer's first vote shall be exercised by,

(a) the producer, if the producer is an individual; or

(b) an individual of at least 18 years of age whom the producer has designated in writing, if the producer is not an individual. O. Reg. 403/10, s. 14 (3).

(4) The producer's second vote shall be exercised by an individual of least 18 years of age who resides in the approved association's association area, is designated in writing by the producer in the form specified by the local board, and,

(a) is employed by the producer in the production of hogs;

(b) if the producer is not an individual,

(i) has an interest in the producer by way of owning shares or a partnership interest in the producer, or

(ii) is a spouse, parent, child, grandchild, sibling or child of a sibling of an individual who has the interest described in subclause (i); or

(c) if the producer is an individual, is a spouse, parent, child, grandchild, sibling or child of a sibling of the producer. O. Reg. 403/10, s. 14 (4).

(5) In subsection (4),

“spouse” means,

(a) a spouse as defined in section 1 of the Family Law Act, or

(b) either of two persons who live together in a conjugal relationship outside marriage. O. Reg. 403/10, s. 14 (5).

(6) If a producer designates an individual to exercise the producer's vote under subsection (3), the producer shall not designate that individual to exercise the producer's vote under subsection (4). O. Reg. 403/10, s. 14 (6).

#### Failure to elect delegates

15. (1) If an approved association fails to elect its allotted number of zone council delegates in accordance with sections 13 and 14, the local board may fix a date and place for a meeting of the association as soon as practicable for the purpose of holding the required election. O. Reg. 403/10, s. 15 (1).

(2) If the local board fixes a date and place for a meeting of an approved association under subsection (1), the local board shall give notice of the date, time and place of the meeting to the producers who are registered as members of the association by publishing or posting, at the local board's expense, the notices that it considers necessary or advisable. O. Reg. 403/10, s. 15 (2).

(3) Section 14 applies with necessary modifications to a meeting fixed under this section. O. Reg. 403/10, s. 15 (3).

#### Substitute delegates

16. (1) At the meeting of an approved association held under section 14 to elect delegates to a zone council, or at a subsequent meeting of the approved association, the producers who are registered as members of the association may elect substitute delegates for the purposes of filling vacancies in the zone council or acting for delegates who are temporarily unable to do so themselves. O. Reg. 403/10, s. 16 (1).

(2) The maximum number of substitute delegates that an approved association may elect under subsection (1) is equal to two times the number of delegates allotted to the association under section 10 in respect of an election. O. Reg. 403/10, s. 16 (2).

(3) Subsections 14 (2) to (6) apply with necessary modifications to the election of substitute delegates. O. Reg. 403/10, s. 16 (3).

(4) If a delegate to a zone council dies, resigns, is deemed to have resigned under subsection 17 (4) or otherwise becomes unable to act for the remainder of his or her term, the substitute delegate who received the greatest number of votes under subsection (1), if any, shall serve as a replacement for the remainder of the delegate's term. O. Reg. 403/10, s. 16 (4).

(5) If a delegate from an approved association is temporarily unable to act as a delegate, a substitute delegate from that association may act in the delegate's place if,

(a) the delegate who is temporarily unable to act notifies his or her association of the inability; and

(b) promptly after receiving the notice, the association notifies the local board of the substitution. O. Reg. 403/10, s. 16 (5).

#### Eligibility to be elected as zone council delegate

17. (1) An individual is eligible to be nominated or elected to serve as a delegate or substitute delegate to a zone council for an approved association if he or she is entitled to exercise a vote at a meeting of the association under section 14. O. Reg. 403/10, s. 17 (1).

(2) A producer who is elected as a zone council delegate ceases to be eligible as a delegate if he or she,

(a) ceases to be a producer; or

(b) ceases to be eligible under section 11 to register as a member of the approved association from which he or she was elected as a delegate. O. Reg. 403/10, s. 17 (2).

(3) An individual described in clause 14 (3) (b) or subsection 14 (4) who is elected as a zone council delegate ceases to be eligible as a delegate if,

(a) the producer whom the individual represents ceases to be a producer;

(b) the producer whom the individual represents ceases to be eligible under section 11 to register as a member of the association from which he or she was elected as a delegate;

(c) the producer whom the individual represents notifies the local board and the applicable zone council in writing that it revokes the designation of the individual under clause 14 (3) (b) or subsection 14 (4), as the case may be; or

(d) in the case of an individual described in subsection 14 (4), he or she ceases to meet any requirements set out in that subsection. O. Reg. 403/10, s. 17 (3).

(4) A delegate is deemed to have resigned as a delegate if he or she ceases to be eligible as a delegate under subsection (2) or (3). O. Reg. 403/10, s. 17 (4).

#### Local Board Elections

##### When local board elections to be held

18. (1) Board members shall be elected to the local board from each hog producing zone in 2011. O. Reg. 403/10, s. 18 (1).

(2) In 2012 and subsequent years, the election of board members from each hog producing zone to the local board shall be staggered to replace board members whose terms of office end, as determined under section 20. O. Reg. 403/10, s. 18 (2).

##### Election, appointment of board members

19. (1) The zone council for each hog producing zone shall elect the board members from among its delegates. O. Reg. 403/10, s. 19 (1).

(2) The election of board members by a zone council shall take place no later than February 28 in each year in which the election of board members from that zone is scheduled to take place. O. Reg. 403/10, s. 19 (2).

(3) If a zone council fails to hold an election by February 28 of the applicable year, the local board may fix a date for the election, to be held as soon as practicable. O. Reg. 403/10, s. 19 (3).

(4) If the vacancies in the number of board members who represent a zone are not filled under subsection (2) or (3), the remaining members of the local board may, before April 30, appoint board members from among the delegates to the zone council for the zone to fill the vacancies. O. Reg. 403/10, s. 19 (4).

(5) If the vacancies in the number of board members who represent a zone are not filled under subsection (2), (3) or (4) by April 30, the Commission may appoint board members from among the delegates to the zone council for the zone to fill the vacancies. O. Reg. 403/10, s. 19 (5).

#### Terms of office, board members

20. (1) Subject to subsection (2), each board member elected or appointed to the local board shall hold office for a three-year term. O. Reg. 403/10, s. 20 (1).

(2) The board members elected in 2011 shall hold office for the following terms:

1. For Zone 1, the board members shall hold office for a three-year term.

2. For Zone 2, the board members shall hold office for a two-year term.

3. For Zone 3, the board members shall hold office for a one-year term.

4. For Zone 4, the board member shall hold office for a one-year term. O. Reg. 403/10, s. 20 (2).

(3) A board member who has not served on the local board prior to the new board being constituted in 2011 under subsection 18 (1) may be elected to a maximum of four three-year terms. O. Reg. 403/10, s. 20 (3).

(4) No board member shall serve on the local board for more than 15 years in his or her lifetime. O. Reg. 403/10, s. 20 (4).

(5) The total years of service referred to in subsection (4) include the following:

1. Years served on the local board prior to January 1, 2011.

2. Years served on the local board as a replacement member under section 21 of this Regulation or section 10 of Regulation 420 of the Revised Regulations of Ontario 1990 (Hogs — Plan) made under the Act. O. Reg. 403/10, s. 20 (5).

(6) A board member's term begins on the later of,

(a) the day on which the board member is elected or appointed, as the case may be; and

(b) the day on which the first meeting of the local board following the annual meeting of the producers in the year in which the board member is elected or appointed is held. O. Reg. 403/10, s. 20 (6).

(7) A board member continues to be a board member until the end of his or her term even if his or her term of office as a zone council delegate has expired. O. Reg. 403/10, s. 20 (7).

#### Vacancies on the local board

21. (1) If a board member dies, resigns as a board member or as a zone council delegate, is deemed to have resigned as a zone council delegate under subsection 17 (4) or otherwise becomes unable to act for the remainder of his or her term, the remaining members of the zone council to which the board member is or was a delegate may, no later than six months after the applicable event, elect from among themselves a replacement to hold office for the remainder of the term. O. Reg. 403/10, s. 21 (1).

(2) If the remaining members of the zone council fail to elect a replacement under subsection (1), the local board may do one of the following:

1. Fix a date and place for a meeting of the zone council as soon as practicable for that purpose.

2. Appoint a replacement to hold office for the remainder of the term. O. Reg. 403/10, s. 21 (2).

(3) A person is ineligible to be elected or appointed as a replacement if that person has served on the local board for 12 or more years. O. Reg. 403/10, s. 21 (3).

(4) If a replacement is not elected in an election held under subsection (1) or elected or appointed under subsection (2), the Commission may appoint a replacement to hold office for the remainder of the term. O. Reg. 403/10, s. 21 (4).

#### Miscellaneous

#### Effect of mistake or irregularity on election

22. A mistake or an irregularity in the proceedings respecting the election of a delegate, substitute delegate or board member does not invalidate the election if,

(a) it appears that the election was conducted in substantial conformity with the procedural requirements for the election set out in this Regulation; and

(b) it does not appear that the mistake or irregularity affected the result of the election. O. Reg. 403/10, s. 22.

23. Omitted (revokes other Regulations). O. Reg. 403/10, s. 23.

24. Omitted (provides for coming into force of provisions of this Act). O. Reg. 403/10, s. 24.