

# *The Saskatchewan Mustard Development Plan Regulations*

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Chapter A-15.2 Reg 8 (effective October 3, 2003).

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER A-15.2 REG 8

### *The Agri-Food Act*

#### PART I

#### Title and Interpretation

##### Title

- 1 These regulations may be cited as *The Saskatchewan Mustard Development Plan Regulations*.

##### Interpretation

- 2 In these regulations:

- (a) **“Act”** means *The Agri-Food Act*;
- (b) **“buyer”** means any person who buys mustard produced in Saskatchewan except a producer who buys mustard produced in Saskatchewan from another producer;
- (c) **“commission”** means the Saskatchewan Mustard Development Commission established pursuant to section 6 and includes the interim commission;
- (d) **“interim commission”** means the interim commission appointed pursuant to section 27;
- (e) **“market development”** means to promote the popularity, consumption or general knowledge of mustard or to bring into being, strengthen, expand or make available markets for mustard produced in Saskatchewan;
- (f) **“mustard”** means:
  - (i) mustard seed or any part of the plant *Sinapis alba*;
  - (ii) non canola quality types of *Brassica juncea* as defined in the regulations made pursuant to the *Seeds Act* (Canada); and
  - (iii) oil, protein and condiment types of *Sinapis alba*;
- (g) **“plan”** means the Saskatchewan Mustard Development Plan established pursuant to section 3;
- (h) **“processor”** means any person engaged in the business of processing mustard;
- (i) **“producer”** means:

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- (i) a person engaged in the production or marketing of mustard and includes the employer of that person;
- (ii) a person who is entitled under any lease or agreement:
  - (A) to a share of the mustard produced by a person mentioned in subclause (i); or
  - (B) to a share of the proceeds from the sale of that mustard; or
- (iii) a person who takes possession of any mustard under any form of security or legal proceedings for a debt;
- (j) **“registered producer”** means a producer who is duly registered with the commission pursuant to section 14 and whose registration is in good standing.

17 Oct 2003 cA-15.2 Reg 8 s2.

## PART II

### Plan

**Plan established**

- 3** The Saskatchewan Mustard Development Plan is established.

17 Oct 2003 cA-15.2 Reg 8 s3.

**Application**

- 4** The plan and the orders of the commission made pursuant to the plan apply to:
- (a) all of Saskatchewan; and
  - (b) all persons engaged in:
    - (i) the production of mustard produced in Saskatchewan; or
    - (ii) the marketing in Saskatchewan of mustard produced in Saskatchewan.

17 Oct 2003 cA-15.2 Reg 8 s4.

**Purpose**

- 5(1)** The purpose of the plan is to develop the mustard industry in Saskatchewan.
- (2) Without limiting the generality of subsection (1), the specific purposes of the plan are:
- (a) to assist in the development and promotion of mustard and mustard products in the domestic and international marketplaces;
  - (b) to conduct and encourage research on production, market development, processing and consumption of mustard and mustard products;
  - (c) to advise governments on matters pertaining to mustard research and development;
  - (d) to gather, compile and distribute information related to the production, consumption and market development of mustard and mustard products;
  - (e) to encourage the production of uniformly high quality mustard and mustard products;

- (f) to promote harmony and communication within the mustard industry;
- (g) to initiate and implement advertising programs, sales promotion programs and consumer education programs to expand awareness and demand for mustard and mustard products;
- (h) to establish a system of collecting check-offs on the marketing of mustard for the purpose of carrying out the objectives of the plan; and
- (i) to work in co-operation with any persons or organizations who have objectives similar to those of the plan.

17 Oct 2003 cA-15.2 Reg 8 s5.

### PART III **Commission**

#### **Commission**

**6(1)** The Saskatchewan Mustard Development Commission is established consisting of six directors elected in accordance with sections 18 to 24.

(2) The commission shall administer the plan.

(3) The interim commission shall administer the plan until a commission is elected.

17 Oct 2003 cA-15.2 Reg 8 s6.

#### **Powers of commission**

**7(1)** The commission may:

- (a) carry out educational, research and developmental programs related to mustard;
- (b) require any or all persons engaged in the production or marketing of mustard to register with the commission;
- (c) set and collect charges for services rendered by the commission from any person engaged in the production or marketing of mustard;
- (d) set and collect check-offs from any person engaged in the marketing of mustard;
- (e) categorize persons engaged in the production or marketing of mustard for the purpose of setting and collecting:
  - (i) the charges mentioned in clause (c); and
  - (ii) the check-offs mentioned in clause (d);
- (f) recover in a court of competent jurisdiction:
  - (i) the charges mentioned in clause (c); or
  - (ii) the check-offs mentioned in clause (d);

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- (g) subject to subsection (3), require any person engaged in the production or marketing of mustard to furnish the commission with any information or records relating to that production or marketing that the commission considers necessary;
- (h) employ any officers and other employees that it considers necessary to administer the plan and determine their respective:
  - (i) duties;
  - (ii) conditions of employment; and
  - (iii) remuneration;
- (i) establish or support, for the benefit of the officers and employees mentioned in clause (h) and their dependants:
  - (i) a group insurance plan; and
  - (ii) any other pension or employee benefit program;
- (j) use any moneys received by the commission:
  - (i) to carry out the purposes of the plan; and
  - (ii) to pay the expenses of the commission;
- (k) borrow, raise or secure the payment of moneys in any manner that the commission thinks appropriate for the purpose of administering the plan;
- (l) draw, make, accept, endorse, execute, issue, hypothecate or assign:
  - (i) promissory notes;
  - (ii) bills of exchange; or
  - (iii) other negotiable or transferable instruments;
- (m) give financial guarantees respecting the indebtedness of any person that the commission considers necessary or advisable for the conduct of business related to the plan;
- (n) purchase, take on lease or exchange, or otherwise acquire real and personal property related to the business of the commission;
- (o) sell or otherwise dispose of any real or personal property acquired by the commission;
- (p) grant:
  - (i) a mortgage against real property acquired by the commission; or
  - (ii) a security interest in personal property acquired by the commission;
- (q) enter into any agreement with any person, agency, organization, institution or body within or outside Saskatchewan for any purpose related to the exercise of any of the powers or the carrying out of any of the duties of the commission in relation to the plan;
- (r) make any orders that are considered by the commission as necessary or advisable to carry out the purposes of the plan;
- (s) amend or revoke any of the orders mentioned in clause (r);

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- (t) exempt from the plan and any order of the commission:
    - (i) any category of persons engaged in the marketing of mustard;
    - (ii) any class, variety or grade of mustard;
  - (u) purchase or acquire by any other means, in the open market or otherwise, shares, bonds, debentures or other securities of any incorporated company;
  - (v) hold, sell, transfer, or otherwise deal with any of the shares, bonds, debentures or other securities mentioned in clause (u) and to exercise any rights as owner of those shares, bonds, debentures or other securities, including the right to vote.
- (2) The commission shall not regulate or control in any way the production or marketing of mustard.

17 Oct 2003 cA-15.2 Reg 8 s7.

**Books and records**

- 8(1) The commission shall:
- (a) maintain any books and records that may be required for the administration of the plan; and
  - (b) keep those books and records open for inspection by the council at any reasonable time.
- (2) The commission shall maintain a registered office and head office in Saskatchewan.
- (3) The commission shall prepare an annual report containing:
- (a) a copy of the audited financial statement of the commission for its previous fiscal year;
  - (b) a description of:
    - (i) the state of the industry; and
    - (ii) the activities of the commission for its previous fiscal year; and
  - (c) a list of the names and addresses of the directors of the commission.
- (4) The commission shall make the annual report available:
- (a) at the annual meeting of the commission; and
  - (b) on request to:
    - (i) any registered producer; or
    - (ii) any buyer.

17 Oct 2003 cA-15.2 Reg 8 s8.

**Committees**

- 9(1) The commission may appoint any advisory committee that it considers necessary or desirable for the proper operation of the plan.

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(2) The members of a committee appointed pursuant to this section are entitled to any remuneration and reimbursement for expenses that the commission may determine.

17 Oct 2003 cA-15.2 Reg 8 s9.

**Chairperson and vice-chairperson**

**10(1)** The commission shall elect a chairperson and a vice-chairperson from among the directors of the commission at their first meeting in each year after new members have been elected.

(2) The chairperson and vice-chairperson hold office at the pleasure of the commission.

(3) The chairperson, or in the absence of the chairperson the vice-chairperson, shall preside over all meetings of the commission.

17 Oct 2003 cA-15.2 Reg 8 s10.

**Quorum**

**11** For the transaction of business at a duly called meeting of the commission:

(a) a majority of the commission constitutes a quorum; and

(b) a decision of a majority of those directors comprising a quorum is a decision of the commission.

17 Oct 2003 cA-15.2 Reg 8 s11.

**Financial**

**12(1)** The commission may open accounts in the name of the commission in a bank, credit union or trust corporation licensed pursuant to *The Trust and Loan Corporations Act, 1997* and appoint signing officers.

(2) The commission may:

(a) invest any money in its possession or control that is not immediately required for the purpose of its operations in securities approved for the investment of money in the general revenue fund pursuant to *The Financial Administration Act, 1993*; and

(b) sell any securities acquired by it pursuant to clause (a) and reinvest any of the proceeds of that sale in a similar manner.

(3) The fiscal year of the commission is the period commencing on August 1 in one year and ending on July 31 in the following year.

(4) When the plan has been disestablished, any assets of the commission remaining after all of the liabilities of the commission have been settled are to be distributed to a research institute that, in the opinion of the commission, will use those assets to contribute to the development of the mustard industry in Saskatchewan.

17 Oct 2003 cA-15.2 Reg 8 s12.

**Meetings of registered producers**

**13(1)** An annual general meeting of registered producers:

(a) is to be held in each year within six months of the end of the commission's fiscal year; and

(b) is to be held at a place and time determined by the commission.

(2) The commission:

(a) may call a special general meeting of registered producers at any time; and



- (b) shall call a special general meeting on the written request of not less than 50 registered producers.
- (3) The commission shall notify all registered producers, in writing, of the date, time and location:
  - (a) of an annual general meeting of registered producers not less than 30 days before the date on which the annual general meeting commences; and
  - (b) of a special general meeting of registered producers not less than 15 days before the date on which the special general meeting commences.
- (4) The quorum at an annual or special general meeting of registered producers is 20 registered producers.
- (5) The commission shall prepare and submit to the annual general meeting for approval:
  - (a) a proposed budget outlining the collection and expenditure of funds for the next fiscal year; and
  - (b) an outline of proposed programs and activities for the next fiscal year.
- (6) At an annual or special general meeting, registered producers may debate and take a vote by show of hands on any questions or resolutions respecting the purposes of the plan.

17 Oct 2003 cA-15.2 Reg 8 s13.

## PART IV Registration

### Registration of producers

- 14(1)** Every producer shall register with the commission at the time and in the manner determined by the commission.
- (2) The commission shall keep and maintain at its head office a register containing the name and address of every registered producer.

17 Oct 2003 cA-15.2 Reg 8 s14.

### Registration of buyers

- 15(1)** Every buyer shall register with the commission at the time and in the manner determined by the commission.
- (2) The commission shall keep and maintain at its head office a register containing the name and address of every registered buyer and processor.

17 Oct 2003 cA-15.2 Reg 8 s15.

**PART V**  
**Check-offs**

**Check-offs**

**16(1)** Every registered producer engaged in the sale of mustard shall pay to the commission, at the times and in the manner determined by the commission, a check-off calculated in accordance with this section.

(2) The check-off mentioned in subsection (1):

(a) is fixed at a rate of 0.5% of the gross value of mustard sold by a registered producer until the commission makes an order pursuant to subclause (b)(i); and

(b) after the period mentioned in clause (a):

(i) subject to subsection (3), is to be determined by order of the commission; and

(ii) is to be based on a fixed percentage of the gross value of mustard sold by a registered producer.

(3) The commission must provide registered producers:

(a) an opportunity to discuss the rate of check-off at annual general meetings; and

(b) provide at least 15 days' notice to registered producers that the rate of the check-off is to be discussed at an annual general meeting.

(4) The commission shall make a refund of check-offs pursuant to section 6 of the Act only if:

(a) the registered producer submits the written request for the refund to the commission:

(i) with respect to check-offs paid between February 1 and July 31 in any year, not later than August 31 of that year; and

(ii) with respect to check-offs paid between August 1 in any year and January 31 in the following year, not later than February 28 of that year; and

(b) the request has been verified by the commission.

(5) If the commission receives and verifies a written request for a refund of check-offs:

(a) paid to the commission by the registered producer between February 1 and July 31 in any year, the commission shall make the refund of those check-offs to the registered producer not later than October 31 of that year; and

(b) paid to the commission by the registered producer between August 1 in any year and January 31 in the following year, the commission shall make the refund of those check-offs to the registered producer not later than April 30 of that year.

**PART VI**  
**Commission orders**

**Commission orders**

**17(1)** The chairperson, or in the absence of the chairperson the vice-chairperson, shall sign every order issued by the commission pursuant to clause 7(1)(r).

(2) The commission shall number in consecutive order and retain and make available for inspection at its head office by any producer, buyer or person designated by the council original copies of all orders that have been approved by the council pursuant to section 20 of the Act.

(3) The commission shall:

- (a) cause all orders of the commission to be published in the Gazette and any other media determined by the commission; and
- (b) annually review the orders of the commission and cause them to be consolidated.

17 Oct 2003 cA-15.2 Reg 8 s17.

**PART VII**  
**Elections**

**Eligibility**

**18(1)** Subject to subsections (5), (6) and (7), every registered producer is eligible to hold office as a director on the commission.

(2) A registered producer that is a corporation, partnership, association, society or a person carrying on business under a corporate name, trade name, farm name or other designation is entitled to vote or hold office:

- (a) only through a designated representative appointed in writing; and
- (b) only if notice of that appointment has been filed with the commission.

(3) Except as provided in subsection (2), voting by proxy is prohibited.

(4) Every registered producer is entitled to one vote.

(5) A registered producer is not eligible to be nominated as a director on the commission if he or she has requested or received a refund of check-offs in the two year period before the day he or she is nominated.

(6) If an elected director on the commission requests a refund of check-offs, he or she must immediately resign from the commission unless he or she withdraws his or her request for a refund of check-offs.

(7) If an elected director on the commission requests a refund of check-offs and fails to comply with subsection (6), he or she is deemed to no longer be a director on the commission.

17 Oct 2003 cA-15.2 Reg 8 s18.

**A-15.2 Reg 8 SASKATCHEWAN MUSTARD DEVELOPMENT PLAN****Election of first commission**

**19(1)** The interim commission shall conduct a vote of registered producers to elect the first commission in accordance with this section and section 20.

(2) The interim commission:

- (a) shall call the vote described in subsection (1) within 12 months after these regulations come into force; and
- (b) may call the vote described in subsection (1) before the first annual general meeting of the commission.

17 Oct 2003 cA-15.2 Reg 8 s19.

**Nominations**

**20(1)** Subject to subsection 18(5), any registered producer is eligible to be nominated for election as a director of the commission.

(2) The commission shall:

- (a) fix the last date for receipt of nominations for election to the commission; and
- (b) at least 30 days before the last date fixed for receipt of nominations, notify registered producers that nominations are being accepted for the commission and giving the last date fixed for receipt of nominations.

(3) Every nomination is to be:

- (a) in writing in the form required by the commission;
- (b) signed by:
  - (i) five registered producers;
  - (ii) five representatives of registered producers appointed pursuant to subsection 18(2); or
  - (iii) any combination of the persons mentioned in subclauses (i) and (ii) totalling five persons; and
- (c) delivered to the returning officer on or before the last date fixed pursuant to subsection (2) for receipt of nominations.

17 Oct 2003 cA-15.2 Reg 8 s20.

**Returning officer and scrutineers**

**21(1)** Subject to subsection (2), the commission shall appoint a returning officer and a scrutineer for the conduct of an election pursuant to section 22.

(2) Registered producers, producers, buyers, processors and employees of the commission are not eligible to be appointed pursuant to subsection (1).

(3) The returning officer appointed pursuant to subsection (1) is responsible for all administrative procedures relating to the conduct of an election.

(4) The scrutineer appointed pursuant to subsection (1) is responsible for scrutinizing all actions related to the conduct of an election.

17 Oct 2003 cA-15.2 Reg 8 s21.

**Conduct of elections**

**22(1)** If not more than the required number of candidates are nominated pursuant to section 20, the candidates nominated are deemed to be elected by acclamation.

(2) If more than the required number of candidates are nominated pursuant to section 20, the commission shall:

- (a) fix a date for the completion of the election; and
- (b) at least 21 days before the date fixed pursuant to clause (a), send by prepaid post to every registered producer:
  - (i) the ballot and ballot envelope;
  - (ii) a biography of every candidate;
  - (iii) a certificate of eligibility to vote; and
  - (iv) notice of the time by which and the place to which the ballot and the certificate of eligibility to vote are to be returned.

(3) Every registered producer that wishes to vote in an election shall:

- (a) complete and sign the certificate of eligibility to vote;
- (b) complete the ballot provided by the commission; and
- (c) seal the ballot and certificate of eligibility to vote in the ballot envelope provided and return it to the returning officer, either in person or by mail, by the date fixed for the completion of the election.

(4) The returning officer shall declare those candidates receiving the greatest number of votes, up to the number of director positions to be filled, to be directors of the commission.

(5) Ties between candidates are to be decided by the drawing of lots.

(6) The ballot of a registered producer is not valid if:

- (a) the registered producer votes for more than the specified number of candidates;
- (b) it is defaced;
- (c) it is marked in any way other than to vote for candidates; or
- (d) it is not the original ballot provided by the commission.

17 Oct 2003 cA-15.2 Reg 8 s22.

**Validity of election**

**23** A registered producer is deemed to have received any notice or nomination paper that is posted to the last address registered by that producer with the commission, and the failure of any registered producer to receive that notice or nomination paper does not invalidate the election.

17 Oct 2003 cA-15.2 Reg 8 s23.

**A-15.2 Reg 8 SASKATCHEWAN MUSTARD DEVELOPMENT PLAN****Term of office, vacancy**

**24(1)** Subject to subsections (2) and (5) and subsections 18(6) and (7), a director of the commission holds office:

- (a) for a term of three years after the date of that director's election; and
  - (b) until the director's successor is elected.
- (2) The term of office of every director of the first elected commission:
- (a) commences on the day on which he or she is declared by the returning officer to be elected; and
  - (b) ends on December 31:
    - (i) in the case of the two directors receiving the largest number of votes, of the third year following the year in which the election is held;
    - (ii) in the case of the two directors receiving the next largest number of votes, of the second year following the year in which the election is held; and
    - (iii) in the case of the two directors receiving the next largest number of votes, of the first year following the year in which the election is held.
- (3) Subject to subsection (4), a director is eligible for re-election.
- (4) If a director has completed three consecutive terms, he or she is not eligible for re-election until one year has passed since the completion of the director's third consecutive term.
- (5) The office of director becomes vacant if a director:
- (a) ceases to qualify as a registered producer;
  - (b) resigns from office;
  - (c) is absent from three consecutive meetings of the commission without being excused by resolution of the commission; or
  - (d) is deemed to no longer be a director pursuant to subsection 18(7).
- (6) If the office of a director becomes vacant, the remaining directors may appoint a registered producer to fill the vacancy until the next election.

17 Oct 2003 cA-15.2 Reg 8 s24.

**Required recommendation**

**25** If, in any one year, not less than 35% of the producers representing not less than 35% of the production of mustard of all producers request a refund of check-offs pursuant to section 6 of the Act, the commission shall recommend to the minister that a vote be conducted pursuant to section 14 of the Act on whether the plan should be disestablished.

17 Oct 2003 cA-15.2 Reg 8 s25.

**Duration of the plan**

**26** The plan remains in effect until these regulations are repealed.

17 Oct 2003 cA-15.2 Reg 8 s26.

**PART VIII**  
**Transitional**

**Interim commission**

**27(1)** The following persons are appointed to the interim commission:

- (a) Brett Meinert, Shaunavon;
  - (b) Dan Thompson, Carnduff;
  - (c) Erroll Simington, Kincaid;
  - (d) Ken Megyesi, Cudworth;
  - (e) René De Moissac, Biggar;
  - (f) Les Trayhorne, Elrose;
  - (g) Dave Pederson, Hawarden.
- (2) Brett Meinert is designated as chairperson of the interim commission.
- (3) The members of the interim commission, while performing their duties and responsibilities as members, are entitled to:
- (a) in the case of the chairperson, \$155 per day; and
  - (b) in the case of all other members, \$110 per day.

17 Oct 2003 cA-15.2 Reg 8 s27.

**PART IX**  
**Coming into force**

**Coming into force**

**28** These regulations come into force on the day on which they are filed with the Registrar of Regulations.

17 Oct 2003 cA-15.2 Reg 8 s28.

