

The Oat Development Plan Regulations

being

Chapter A-15.21 Reg 6 (effective April 12, 2006) as amended
by Saskatchewan Regulations 58/2012.

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-15.21 REG 6

The Agri-Food Act, 2004

PART I

Title and Interpretation

Title

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

Interpretation

- 2 In these regulations:

- (a) **“Act”** means *The Agri-Food Act, 2004*;
- (a.1) **“business day”** means a day other than a Saturday, Sunday or holiday;
- (a.2) **“buyer”** means any person who buys oats produced in Saskatchewan;
- (b) **“commission”** means the Saskatchewan Oat Development Commission established pursuant to section 7;
- (c) **“director”** means a director of the commission elected or appointed in accordance with these regulations;
- (d) **Repealed.** 7 Sep 2012 SR 58/2012 s3.
- (e) **“oat”** means any seed produced by or any part of the oat plant *Avena sativa L.*;
- (f) **“oat plan”** means the Oat Development Plan established pursuant to section 3;
- (g) **“oat producer”** means:
 - (i) a person engaged in or responsible for the production, marketing or production and marketing of oats but does not include an employee of such a person;
 - (ii) a person who is entitled under any lease agreement:
 - (A) to a share of the oats produced by a person mentioned in subclause (i); or
 - (B) to a share of the proceeds from the sale of those oats; or
 - (iii) a person who takes possession of any oats under any form of security or legal proceedings for a debt;

- (h) **“registered oat producer”** means an oat producer who:
 - (i) is registered with the commission pursuant to section 21; and
 - (ii) has paid a levy pursuant to subsection 23(1) in the last two years for which he or she has not received a refund pursuant to section 24;
- (i) **Repealed.** 7 Sep 2012 SR 58/2012 s3.

21 Apr 2006 cA-15.21 Reg 6 s2; 7 Sep 2012 SR 58/2012 s3.

PART II Oat Plan

Oat plan established

- 3** The Oat Development Plan is established.

21 Apr 2006 cA-15.21 Reg 6 s3.

Application

- 4** Subject to any exemptions made by order of the commission, the oat plan and the orders of the commission made pursuant to the oat plan apply:

- (a) throughout Saskatchewan; and
- (b) to all persons engaged in the production, marketing or production and marketing of oats in Saskatchewan.

21 Apr 2006 cA-15.21 Reg 6 s4.

Purpose

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

- (h) to initiate and implement advertising programs, sales promotion programs and consumer education programs to expand awareness and demand for oats and oat products;
- (i) to establish a system of collecting levies on the production, marketing or production and marketing of oats for the purpose of carrying out the objectives of the oat plan; and
- (j) to work in co-operation with any persons or organizations that have objectives similar to those of the oat plan.

21 Apr 2006 cA-15.21 Reg 6 s5; 7 Sep 2012 SR 58/2012 s4.

6 Repealed. 7 Sep 2012 SR 58/2012 s5.

PART III Commission

Commission

7(1) The Saskatchewan Oat Development Commission is established consisting of six directors elected in accordance with Part VII.

(1.1) If fewer than six directors are elected pursuant to Part VII, the commission may appoint registered oat producers as directors as it considers necessary to fill those positions.

(2) The commission shall administer the oat plan.

21 Apr 2006 cA-15.21 Reg 6 s7; 7 Sep 2012 SR 58/2012 s6.

Powers of commission

8(1) Subject to the other provisions of these regulations, the commission may exercise the following powers that are set out in subsection 8(1) of the Act:

- (a) the power to carry out educational, research and developmental programs related to oats;
- (b) the power to require any or all persons engaged in the production, marketing or production and marketing of oats to register with the commission;
- (c) the power to set and collect registration fees and charges for services rendered by the commission from any person engaged in the production, marketing or production and marketing of oats;
- (d) the power to set and collect a levy from any person engaged in the production, marketing or production and marketing of oats;
- (e) the power to categorize into groups persons engaged in the production, marketing or production and marketing of oats for the purpose of setting and collecting the fees, charges or levies mentioned in clauses (c) and (d);

- (f) the power to set and collect penalties from any person who:
 - (i) is engaged in the production, marketing or production and marketing of oats; and
 - (ii) contravenes an order of the commission;
- (g) the power to recover any unpaid fees, charges, levies or penalties mentioned in clause (c), (d) or (f) by an action in a court of competent jurisdiction;
- (h) the power to require any person engaged in the production, marketing or production and marketing of oats to furnish the commission with any information or records relating to that production or marketing that the commission considers necessary;
- (i) the power to market, grade or insure oats, either as principal or agent;
- (j) the power to:
 - (i) employ any officers and employees that it considers necessary to administer the oat plan; and
 - (ii) determine the duties, conditions of employment and remuneration of its officers and employees;
- (k) the power to establish or support a group insurance plan, a pension plan or any other employee benefit programs for its officers and employees mentioned in clause (j) and their dependants;
- (l) the power to use any money received by the commission to carry out the purposes of the oat plan and to pay the expenses of the commission;
- (m) the power to borrow, raise or secure the payment of money in any manner that the commission considers appropriate for the purpose of administering the oat plan;
- (n) the power to draw, make, accept, endorse, execute, issue, hypothecate or assign promissory notes, bills of exchange or other negotiable or transferable instruments;
- (o) subject to subsection (3), the power to make grants or loans to any person, organization, agency, institution or body within or outside Saskatchewan, for the purposes of the oat plan;
- (p) subject to subsection (3), the power to give financial guarantees respecting the indebtedness of any person if the commission considers it necessary or advisable for the purposes of the oat plan;
- (q) the power to purchase, take on lease or exchange or otherwise acquire real and personal property related to the business of the commission, and to insure, sell or otherwise dispose of any of its property;

- (r) the power to grant a mortgage or security interest in any of the commission's real or personal property;
 - (s) subject to section 35 of the Act, the power to 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 oat plan;
 - (t) the power to:
 - (i) require any person who owes money to an oat producer with respect to the sale by the oat producer of oats to pay the money to the commission; and
 - (ii) distribute the money paid to the commission pursuant to subclause (i), in the manner determined by the commission, to the oat producer to whom the money is owing;
 - (u) the power to:
 - (i) purchase or acquire by any other means, in the open market or otherwise, any securities of any corporation; and
 - (ii) hold membership in any corporation;
 - (v) the power to:
 - (i) hold, sell, transfer or otherwise deal with any of the securities mentioned in clause (u); and
 - (ii) exercise any rights, including the right to vote, as:
 - (A) an owner of the securities mentioned in clause (u); or
 - (B) a member;
 - (w) the power to register a business name pursuant to *The Business Names Registration Act*;
 - (x) the power to prescribe the manner in which reimbursement for expenses of the directors is to be determined and paid.
- (2) The commission shall not regulate or control in any way the production, marketing or production and marketing of oats.
- (3) Neither the sum of the loans nor the sum of the financial guarantees mentioned in clauses (1)(o) and (p) shall exceed 10% each of the commission's current assets as reported in the audited financial statement in the commission's most recent annual report at the time the loan or financial guarantee is made or given.

Books and records**9(1)** The commission shall:

- (a) maintain any books and records that may be required for the administration of the oat 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) to the council;
 - (b) at the annual general meeting of registered oat producers; and
 - (c) on request to:
 - (i) any registered oat producer; or
 - (ii) any buyer registered pursuant to section 22.

21 Apr 2006 cA-15.21 Reg 6 s9; 7 Sep 2012 SR 58/2012 s8.

Appointment of auditor**10(1)** The registered oat producers:

- (a) shall, at each annual general meeting, appoint an auditor to audit the books, records and financial statements of the commission for the current fiscal year; and
 - (b) may, at any special general meeting, appoint an auditor to audit the books, records and financial statements of the commission for the current fiscal year.
- (2) If the registered oat producers fail to appoint an auditor pursuant to clause (1)(a) for a fiscal year, the council shall appoint an auditor to audit the books, records and financial statements of the commission for that fiscal year.
- (3) Any person appointed as auditor pursuant to this section must:
- (a) be independent of:
 - (i) the commission; and
 - (ii) the directors and officers of the commission; and
 - (b) be a member in good standing of a recognized accounting profession that is regulated by an Act.

21 Apr 2006 cA-15.21 Reg 6 s10.

Committees

11(1) The commission may appoint any committee that it considers necessary or desirable for the proper operation of the oat plan.

(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.

21 Apr 2006 cA-15.21 Reg 6 s11.

Chairperson and vice-chairperson

12(1) The commission shall elect a chairperson and vice-chairperson from among the directors of the commission at their first meeting in each year after new directors 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.

21 Apr 2006 cA-15.21 Reg 6 s12.

Quorum

13 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.

21 Apr 2006 cA-15.21 Reg 6 s13.

Policies re conflict of interest and code of conduct

14 Within 18 months after the coming into force of these regulations, the commission shall prepare and submit to the council:

(a) a conflict of interest policy for the directors; and

(b) a policy respecting a code of conduct for the directors.

21 Apr 2006 cA-15.21 Reg 6 s14.

Conflicts of interest

15(1) No director shall:

(a) fail to disclose to the commission any conflict of interest that the director may have; or

(b) vote on any matter with respect to which the director has any direct or indirect financial interest that is different from the financial interest of other oat producers.

(2) If the commission is uncertain whether or not a director has a conflict of interest mentioned in clause (1)(a) or (b), the commission must adjourn the matter until the conflict of interest issue is resolved pursuant to the policies mentioned in section 14.

21 Apr 2006 cA-15.21 Reg 6 s15.

Bank accounts

16 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.

21 Apr 2006 cA-15.21 Reg 6 s16.

Investments

17 The commission may:

- (a) invest any money in its possession or control that is not immediately required for a purpose of the oat plan or its operations in any security or class of securities authorized for investment of money in the general revenue fund pursuant to *The Financial Administration Act, 1993*; and
- (b) dispose of any investment made pursuant to clause (a) in any manner, on any terms and in any amount that the commission considers expedient.

21 Apr 2006 cA-15.21 Reg 6 s17.

Fiscal year

18 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.

21 Apr 2006 cA-15.21 Reg 6 s18.

Financial plan

19 The commission shall prepare and approve a financial plan of its operations at the beginning of each fiscal year.

21 Apr 2006 cA-15.21 Reg 6 s19.

Meetings of registered oat producers

20(1) An annual general meeting of registered oat 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 oat producers at any time; and
- (b) shall call a special general meeting on the written request of not less than 20 registered oat producers.

(3) The commission shall notify all registered oat producers, in writing:

- (a) for an annual general meeting of registered oat producers, of the date, time, location and agenda not less than 30 days before the date on which the annual general meeting commences; and
- (b) for a special general meeting of registered oat producers, of the date, time, location and agenda not less than 15 business days before the date on which the special general meeting commences.

- (3.1) The notice mentioned in subsection (3) may be sent:
- (a) by ordinary or registered mail; or
 - (b) at the request of a registered oat producer, by facsimile or electronic mail.
- (3.2) If a notice is sent pursuant to clause (3.1)(b), it is deemed to be received on the next business day after it was sent.
- (4) The quorum at an annual or special general meeting of registered oat producers is 20 registered oat producers.
- (5) The commission shall present to the annual general meeting:
- (a) the financial plan it has approved for the current fiscal year; and
 - (b) an outline of programs and activities it has planned for the current fiscal year.
- (6) Any change to the remuneration to be paid to the directors of the commission is to be determined by motion of the commission and approved by a vote of registered oat producers at the next annual general meeting or special general meeting.
- (7) At an annual or special general meeting, registered oat producers may debate and take a vote by show of hands on any questions or resolutions respecting the purposes of the oat plan.

21 Apr 2006 cA-15.21 Reg 6 s20; 7 Sep 2012 SR 58/2012 s9.

PART IV

Registration

Registration of oat producers

- 21(1)** Every oat producer shall register with the commission at the time and in the manner determined by order of the commission.
- (2) The commission shall keep and maintain at its head office a register containing the name and address of every registered oat producer.

21 Apr 2006 cA-15.21 Reg 6 s21.

Registration of buyers

- 22(1)** Every buyer shall register with the commission at the time and in the manner determined by order of the commission.
- (2) The commission shall keep and maintain at its head office a register containing the name and address of every registered buyer.

21 Apr 2006 cA-15.21 Reg 6 s22.

PART V**Levies****Collection of levies**

23(1) Every oat producer engaged in the marketing of oats shall pay to the commission, at the times and in the manner determined by the commission, a levy calculated in accordance with this section.

(2) Subject to subsection (3), the levy mentioned in subsection (1):

- (a) is to be determined by order of the commission; and
- (b) is to be based on a fixed rate for every net tonne of oats marketed by an oat producer.

(3) The commission shall provide registered oat producers:

- (a) an opportunity to discuss the rate of levy at annual general meetings and special general meetings; and
- (b) at least 15 business days' notice that the rate of the levy is to be discussed at an annual general meeting or special general meeting.

7 Sep 2012 SR 58/2012 s10.

Refund of levies

24(1) The commission shall make a refund of levies only if:

- (a) the commission receives a written request for the refund from the oat producer with respect to levies paid between August 1 in any year and July 31 in the following year, not later than August 31 of that year; and
- (b) the request has been verified by the commission.

(2) If the commission receives and verifies a written request for a refund of levies that were paid to the commission by the oat producer between August 1 in any year and July 31 in the following year, the commission shall make the refund of those levies to the oat producer not later than October 31 of that year.

7 Sep 2012 SR 58/2012 s10.

Required notification

25 If, for any one fiscal year, 35% or more of the oat producers representing 35% or more of the levy for that fiscal year request a refund of levies pursuant to subsection 24(1), the commission shall immediately notify the council.

7 Sep 2012 SR 58/2012 s10.

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

26(1) The chairperson, or in the absence of the chairperson the vice-chairperson, shall sign every order issued by the commission pursuant to section 12 of the Act.

(2) The commission shall number in consecutive order, retain and make available for inspection at its head office by any oat producer, buyer or person designated by the council original copies of all orders that have been approved by the council pursuant to section 12 of the Act.

(3) The commission shall:

- (a) cause all orders of the commission to be published in the Gazette and in any other media it considers appropriate; and
- (b) annually review the orders of the commission and consolidate them.

21 Apr 2006 cA-15.21 Reg 6 s26.

PART VII Elections

Eligibility

27(1) Every registered oat producer is eligible to hold office as a director of the commission.

(2) Subject to subsection (5), a registered oat producer that is a corporation, association, society 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 in a form and manner acceptable to the commission.

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

(4) Subject to subsection (5), every registered oat producer is entitled to one vote.

(5) No individual shall be entitled to more than one vote regardless of whether he or she is voting as an individual registered oat producer or as a designated representative of a registered oat producer.

21 Apr 2006 cA-15.21 Reg 6 s27.

28 Repealed. 7 Sep 2012 SR 58/2012 s11.

Nominations

29(1) Any registered oat 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 for receipt of nominations, notify registered oat producers that nominations are being accepted for the commission and of the last date for receipt of nominations.

- (3) Every nomination is to be:
 - (a) in writing in the form required by the commission;
 - (b) signed by:
 - (i) three registered oat producers;
 - (ii) three representatives of registered oat producers appointed pursuant to subsection 27(2); or
 - (iii) any combination of the persons mentioned in subclauses (i) and (ii) totalling three persons; and
 - (c) delivered to the returning officer on or before the date fixed pursuant to clause (2)(a) for receipt of nominations.

21 Apr 2006 cA-15.21 Reg 6 s29.

Returning officer and scrutineers

- 30(1)** Subject to subsection (2), the commission shall appoint a returning officer and a scrutineer to conduct an election pursuant to section 31.
- (2) Registered oat producers, oat producers, buyers and officers 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 related to conducting an election.
- (4) The scrutineer appointed pursuant to subsection (1) is responsible for scrutinizing all actions related to conducting an election.

21 Apr 2006 cA-15.21 Reg 6 s30.

Conduct of elections

- 31(1)** If not more than the required number of candidates is nominated pursuant to section 29, the candidates nominated are deemed to be elected by acclamation.
- (2) If more than the required number of candidates is nominated pursuant to section 29, the commission shall:
 - (a) fix a date for the completion of the election; and
 - (b) at least 15 business days before the date fixed pursuant to clause (a), send by ordinary or registered mail to every registered oat producer:
 - (i) the ballot and a plain envelope;
 - (ii) a profile 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 oat producer that wishes to vote in an election shall:
 - (a) complete the ballot provided by the commission; and
 - (b) seal the ballot and certificate of eligibility to vote in the envelope provided and return it to the returning officer, either in person or by mail, by the date fixed for them to be returned.

(4) If a tie does not occur between candidates, the returning officer shall prepare and submit a written report to the chairperson that declares 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) The ballot of a registered oat producer is not valid if:

- (a) the certificate of eligibility is not returned with the ballot;
- (a.1) the registered oat 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;
- (d) it is not the original ballot provided by the commission; or
- (e) the individual who voted for the registered oat producer voted more than once.

21 Apr 2006 cA-15.21 Reg 6 s31; 7 Sep 2012 SR 58/2012 s12.

Failure to receive documents does not invalidate election

32 The failure of any registered oat producer to receive the documents mentioned in clause 31(2)(b) does not invalidate the election.

7 Sep 2012 SR 58/2012 s13.

Election results

33 The returning officer shall declare the names of the persons elected as directors at the first annual general meeting of registered oat producers after the election, immediately after the minutes of the previous meeting have been dealt with.

21 Apr 2006 cA-15.21 Reg 6 s33; 7 Sep 2012 SR 58/2012 s14.

Term of office, vacancy

34(1) Subject to subsection (4), a director of the commission holds office:

- (a) in the case of an elected director, for a term of four years commencing with the declaration of the director's election by the returning officer and until the director's successor is elected or appointed, as the case may be; or
- (b) in the case of a director appointed pursuant to subsection 7(1.1), for a term of four years commencing with the appointment of the director by the commission, and until director's successor is elected or appointed, as the case may be.

(2) Subject to subsection (3), a director is eligible for re-election or reappointment.

(3) If a director has completed two consecutive terms, he or she is not eligible for re-election or reappointment until two years have passed since the completion of the director's second consecutive term.

- (4) The office of director becomes vacant if a director:
- (a) ceases to qualify as a registered oat producer;
 - (b) resigns, dies or is unable to act;
 - (c) is absent from two consecutive meetings of the commission without being excused by a resolution of the commission; or
 - (d) fails to fulfil his or her duties as established by the policy of the commission and approved by the council.
- (5) Notwithstanding subsection 7(1), if the office of a director becomes vacant, the commission may appoint a registered oat producer as a director to fill the vacancy until the next election.

7 Sep 2012 SR 58/2012 s15.

Tie votes

- 35(1)** If a tie occurs between candidates, the successful candidate is to be determined by a vote of registered oat producers conducted at the next annual general meeting of registered oat producers.
- (2) Voting pursuant to subsection (1) is to be by secret ballot.
- (3) Only registered oat producers who are in attendance at the annual general meeting are entitled to vote pursuant to subsection (1), and each of those registered oat producers is entitled to one vote for that purpose.
- (4) The returning officer shall count the votes cast pursuant to subsection (1) and declare the winner of the tie vote before proceeding with any further business at the annual general meeting.

21 Apr 2006 cA-15.21 Reg 6 s35; 7 Sep 2012 SR 58/2012 s16.

Retention of ballots

- 36** The returning officer shall:
- (a) retain all ballots in his or her possession; and
 - (b) not destroy any ballot or other record respecting an election of directors until 91 days after the annual general meeting of registered oat producers at which the returning officer declared the results of the election.

21 Apr 2006 cA-15.21 Reg 6 s36; 7 Sep 2012 SR 58/2012 s17.

Challenge to election results

37(1) Any registered oat producer may challenge the results of an election of directors, as declared by the returning officer pursuant to section 33 or subsection 35(4), by submitting a written objection to the council.

(2) A written objection submitted pursuant to subsection (1) must:

(a) set out the grounds for the objection; and

(b) be received by the council within 90 days after the annual general meeting of registered oat producers at which the returning officer declared the results of the election.

(3) If the council receives a written objection in accordance with this section and is satisfied that the objection is neither frivolous nor vexatious, the council may appoint a vote recount officer to conduct a recount of the votes cast in the election.

(4) If the council appoints a vote recount officer pursuant to subsection (3), the results of the election as determined by the vote recount officer are final.

21 Apr 2006 cA-15.21 Reg 6 s37; 7 Sep 2012 SR 58/2012 s18.

PART VIII**Transitional and Coming into Force**

38 Repealed. 7 Sep 2012 SR 58/2012 s19.

Coming into force

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

21 Apr 2006 cA-15.21 Reg 6 s39.

