



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

ALBERTA WHEAT COMMISSION PLAN REGULATION

Alberta Regulation 134/2012

Extract

© Published by Alberta Queen's Printer

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ALBERTA REGULATION 134/2012

Marketing of Agricultural Products Act

**ALBERTA WHEAT COMMISSION
PLAN REGULATION**

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Schedule

Definitions**1** In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (b) “annual Commission meeting” means an annual general meeting of the directors and the eligible producers;
- (c) “assets” means economic resources controlled by the board of the Commission as a result of past transactions and from which future economic benefits may be obtained;
- (d) “auditor” means a person registered under the *Regulated Accounting Profession Act* or a firm or partnership of those persons;
- (e) “board” means the board of directors of the Commission;
- (f) “Commission” means the Alberta Wheat Commission established under section 7;
- (g) “Council” means the Alberta Agricultural Products Marketing Council;
- (h) “dealer” means a person or business operation purchasing or acquiring regulated product from a producer and includes, but is not limited to,
 - (i) elevator companies, grain companies, grain dealers and grain brokers,
 - (ii) processors and manufacturers of food, feed, fibre, fuel and industrial products,
 - (iii) livestock and poultry producers and feeders who purchase or acquire regulated product from other producers, and
 - (iv) persons who acquire regulated product from the producer for sale on the producer’s behalf;
- (i) “directors” means the board of directors of the Commission;
- (j) “eligible producer” means a producer who qualifies as an eligible producer under section 16;
- (k) “fiscal year” means a year commencing on August 1 and concluding on July 31;
- (l) “marketing”

- (i) means buying, owning, selling, offering for sale, storing, grading, assembling, packing, transporting, advertising or financing, and
- (ii) includes any other function or activity designated as marketing by the Lieutenant Governor in Council;
- (m) “person” means a person as defined in the *Interpretation Act* and includes
 - (i) a partnership as defined in the *Partnership Act*,
 - (ii) any unincorporated organization that is not a partnership referred to in subclause (i), and
 - (iii) any group of individuals who are carrying on an activity for a common purpose and are neither a partnership referred to in subclause (i) nor an unincorporated organization referred to in subclause (ii);
- (n) “producer” means a person who
 - (i) grows wheat for sale on land in Alberta, or
 - (ii) is entitled, pursuant to a crop share arrangement, to a share of the wheat that is grown on the land located in Alberta;
- (o) “regulated product” means wheat;
- (p) “special Commission meeting” means a special general meeting of the directors and the eligible producers;
- (q) “wheat” means any wheat that falls under the genus and species TRITICUM AESTIVUM L. em THELL and includes, but is not limited to cultivars of the following wheat classes that fall under the *Canada Grain Regulations* (CRC, c. 889), including all eligible grades of these wheat classes as specified by the Canadian Grain Commission grade standards, including tough, damp and feed wheat:
 - (i) Canada Western Red Spring;
 - (ii) Canada Western Amber Durum;
 - (iii) Canada Western Soft White Spring;
 - (iv) Canada Western Red Winter;
 - (v) Canada Western Extra Strong;

- (vi) Canada Prairie Spring Red;
- (vii) Canada Western General Purpose;
- (viii) Canada Prairie Spring White;
- (ix) Canada Western Hard White Spring;
- (r) “wheat class” means the class of wheat specified in the *Canada Grains Act* and the *Canada Grain Regulations* (CRC, c. 889).

Designation of agricultural product

2 Wheat is designated as an agricultural product for the purposes of the Act.

**Part 1
General Operation of Plan****Division 1
Plan****Plan established**

3 There is hereby established a plan with the name “Alberta Wheat Commission Plan”.

Termination of Plan

4 This Plan does not terminate at the conclusion of a specific period of time and remains in force unless otherwise terminated pursuant to the Act.

Application of Plan

- 5** This Plan applies
- (a) to all of Alberta,
 - (b) to all producers in Alberta who produce or market the regulated product, and
 - (c) for the purposes of sections 9(a), (b), (c), (f) and (h) and 12,
 - (i) to dealers, and
 - (ii) to any persons who are not producers or dealers and who market or process the regulated product.

Purpose of Plan

6(1) The purpose of this Plan is to do the following:

- (a) to initiate and carry out projects or programs related to research and studies with respect to the production and handling of wheat, including research and studies concerning the development and use of wheat that improves the demand, agronomic competitiveness and profitability of wheat;
- (b) to assist, educate and inform producers, dealers and others in developing and improving methods regarding the production and processing of wheat;
- (c) to initiate and carry out programs, including sale promotion programs and consumer education programs to expand the market awareness and demand for wheat and wheat products, both within Alberta and export markets;
- (d) to assist generally in the development and promotion of the wheat industry in Alberta;
- (e) to advise governments on matters concerning the wheat industry;
- (f) to co-operate with the Government of Canada and the Government of Alberta with respect to the maintenance of the quality and standards of the regulated product;
- (g) to work with any organization that has similar objectives to those of the Commission.

(2) Under this Plan neither the production nor the marketing of the regulated product is to be controlled or regulated.

Division 2

Operation of Plan by Commission

Commission established

7 There is hereby established a commission with the name "Alberta Wheat Commission".

Functions of Commission

8(1) The Commission

- (a) is, subject to the Act, responsible for the operation, regulation, supervision and enforcement of this Plan;
- (b) must

- (i) open one or more accounts in a bank, trust company, treasury branch, credit union or other depository,
 - (ii) designate such officers, employees and other persons as are necessary to sign cheques and transact the Commission's business, and
 - (iii) generally do anything that is incidental to or in connection with the transaction of the business of the Commission with its bank, trust company, treasury branch, credit union or other depository;
- (c) when investing its assets must make prudent investments in accordance with the requirements of section 3 of the *Trustee Act* respecting the investment of assets and may delegate to an agent in accordance with section 5(1) to (3) of that Act;
- (d) must establish policies respecting the management of its assets as required by the *Operation of Boards and Commissions Regulation* (AR 26/99);
- (e) may enter into an operating line of credit or other loan agreement with its bank, trust company, treasury branch, credit union or other lending institution;
- (f) must maintain such books and records, including financial records,
- (i) as from time to time may be required under the Act, the regulations or by virtue of any order of the Council, or
 - (ii) as may be determined by the Commission;
- (g) must maintain a head office, the location of which, at all times, is to be made known to each eligible producer;
- (h) may appoint or contract with officers, employees and agents, prescribe their duties and fix their remuneration;
- (i) subject to the Act, may issue administrative orders and directions governing the Commission;
 - (j) may become a member of any agricultural organization;
 - (k) may contribute funds to any agricultural organization that has objectives similar to the objectives of the Commission;
 - (l) may, in accordance with section 50 of the Act, be authorized to perform any function or duty and exercise

any power imposed or conferred on the Commission by or under the *Agricultural Marketing Programs Act* (Canada) or the *Canada Grains Act*;

- (m) subject to section 11, to finance the purposes of the Plan, may retain earnings and revenues from year to year.

(2) The books and records referred to in subsection (1)(f) are to be open for inspection at the office of the Commission at all reasonable times on the written request of a member of the Council.

Operation of Plan re regulations

9 For the purposes of enabling the Commission to operate this Plan, the Commission may be empowered by the Council, pursuant to section 26 of the Act, to make regulations

- (a) requiring any person who produces, markets or processes the regulated product to furnish to the Commission any information or record relating to the production, marketing or processing of the regulated product that the Commission considers necessary;
- (b) requiring persons other than producers to be licensed under this Plan before they become engaged in the marketing and processing, or either of those functions, of the regulated product;
- (c) governing the issuance, suspension or cancellation of a licence issued under this Plan;
- (d) providing for
 - (i) the assessment, charging and collection of service charges from producers from time to time for the purposes of this Plan, and
 - (ii) the taking of legal action to enforce payment of the service charges;
- (e) respecting the circumstances, if any, under which a service charge may be refundable to a producer;
- (f) requiring any person who receives the regulated product from a producer
 - (i) to deduct from the money payable to the producer any service charges payable by the producer to the Commission, and

- (ii) to forward the amount deducted to the Commission;
- (g) providing for the use of any class of service charges or other money payable to or received by the Commission for the purpose of paying its expenses and administering this Plan and the regulations made by the Commission;
- (h) prohibiting persons from engaging in the marketing or processing, as the case may be, of a regulated product except under the authority of a licence issued under this plan.

Financing of Plan

10(1) In accordance with the regulations,

- (a) this Plan is to be financed
 - (i) by the charging and collection of service charges from producers, and
 - (ii) by any other money payable to or received or accrued by the Commission;
- (b) the Commission may, from time to time, change the amount of the service charge, but the change will not be effective until it has been approved by a majority of the eligible producers at an annual Commission meeting or a special Commission meeting.

(2) The initial amount of the service charge to be established after the coming into force of this Plan is to be established by the Commission and must be approved by the Council before it becomes effective.

Service charges refundable

11(1) In accordance with the regulations,

- (a) the service charge is refundable to a producer on request of the producer;
- (b) the request for a refund of the service charge must
 - (i) be made in writing on a form established by the Commission, and
 - (ii) contain the following information:
 - (A) the producer's name;

- (B) the producer's mailing address, telephone number and, if available, e-mail address;
 - (C) the wheat class or wheat classes of the regulated product sold;
 - (D) the total quantity of the regulated product sold in metric tonnes or portion thereof and the total amount of the service charge deducted;
 - (E) the name, mailing address, telephone number and if available, e-mail address of any dealer who collected the service charge on behalf of the producer;
 - (F) any other information in respect of the refund that is requested by the Commission;
 - (G) the legal land description of the land where the regulated product was grown;
- (c) requests for refunds must be received by the Commission at its head office
- (i) prior to the end of August, for service charges collected during the period commencing on the previous February 1 and ending on July 31, and
 - (ii) prior to the end of February, for service charges collected during the period commencing on the previous August 1 and ending on January 31;
- (d) any request for a refund that is not received by the Commission within the time periods specified under clause (c) shall not be considered by the Commission and the producer will not be entitled to a refund in respect of the service charge in question;
- (e) the Commission must refund the service charge to the producer within 90 days from the end of the period in which the request for a refund of the service charge is received, if the request complies with the regulations.
- (2)** In the event that within one fiscal year
- (a) the eligible producers requesting refunds of the service charge comprise more than 35% of existing eligible producers, and
 - (b) those eligible producers requesting a refund in clause (a) account for at least 35% of the service charges collected during the current fiscal year,

the continued operation of this Plan is to be subject to the approval of a majority of the eligible producers of the regulated product at a plebiscite to be held under the direction of the Council pursuant to the Act.

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

Collection of service charge

12 In accordance with the regulations,

- (a) all dealers who
 - (i) purchase regulated product from a producer, or
 - (ii) acquire regulated product from a producer for sale on the producer's behalf

must collect the service charge for the regulated product by deducting from any proceeds payable to or on behalf of the producer the amount of the service charge;
- (b) any person who receives proceeds on behalf of the producer with respect to the sale by the producer of regulated product must collect the service charge for the regulated product by deducting from the proceeds payable to or on behalf of the producer, the amount of the service charge;
- (c) any person who collects a service charge must pay the amount of the service charge to the Commission within 55 days from the end of the month within which the service charge was collected;
- (d) all persons required under this Plan to collect and pay to the Commission the service charge payable by a producer must
 - (i) pay the service charge to the Commission, and
 - (ii) provide to the Commission, for each producer, a summary detailing
 - (A) the amount of the regulated product in metric tonnes or portions thereof obtained from the producer,
 - (B) the wheat class of the regulated product,

- (C) the amount of the service charge being paid on behalf of the producer, and
- (D) the name, mailing address, telephone number and, if available, e-mail address of the producer.

Auditor

13 The auditor for the Commission is to be appointed from time to time at an annual Commission meeting or a special Commission meeting.

Indemnification fund

14 A fund shall not be established under section 34 or 35 of the Act.

Honorary memberships, etc.

15 The Commission may establish non-voting associate, industry, affiliate or honorary memberships under this Plan to provide interested individuals or organizations with the opportunity to contribute to the efforts of the Commission.

Part 2 Governance of Plan

Division 1 Producers

Eligible producers

- 16** For the purposes of this Plan,
- (a) any producer who has paid a service charge under this Plan in a fiscal year is an eligible producer for that fiscal year;
 - (b) the Commission must maintain a list of eligible producers;
 - (c) all producers who can be identified by the Commission as having paid a service charge under this Plan during a fiscal year are to be included on the list of eligible producers for that fiscal year;
 - (d) any producer who is not listed on the Commission's list of eligible producers must be added to the list where the producer can provide proof to the Commission that the producer has paid a service charge under this Plan in the fiscal year for which the application is made;

- (e) once a producer is listed with the Commission as an eligible producer, the producer continues to be recognized as an eligible producer from fiscal year to fiscal year, unless the eligible producer ceases to pay a service charge under this Plan in 2 subsequent fiscal years, in which case the producer ceases to be an eligible producer;
- (f) where a producer ceases to be an eligible producer under clause (e), the producer is entitled to again become an eligible producer for any fiscal year in which the producer pays a service charge under this Plan.

General rights of producers

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

- (a) to attend annual Commission meetings, special Commission meetings and annual region meetings;
- (b) to make representations on any matter pertaining to this Plan, the Commission and the board;
- (c) to vote on any matter under this Plan;
- (d) to vote in any election for directors where the eligible producer is eligible to vote;
- (e) to hold office as a regional representative or a director;
- (f) to vote in any plebiscites of producers held under the Act.

Eligible producers who are individuals

18 Where an eligible producer is an individual, that individual may, subject to this Plan, exercise the rights of an eligible producer referred to in section 17.

Producers that are not individuals

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

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

(3) A representative appointed by an eligible producer under this section shall, subject to this Plan, exercise on behalf of the eligible producer the rights referred to in section 17.

- (4) If an eligible producer is
- (a) a corporation, it must appoint an individual who is a director, shareholder, member, officer or employee of the corporation as its representative,
 - (b) a partnership, it must appoint an individual who is a partner or employee of the partnership as its representative, or
 - (c) an organization, other than a corporation or a partnership, it must appoint an individual who is a member, officer or employee of the organization as its representative.
- (5) An appointment of a representative under this section must be
- (a) in writing, and
 - (b) in the case where a vote is to be taken at a meeting, filed with the returning officer prior to the calling to order of the meeting at which a vote is to take place.
- (6) An individual who is the representative of a producer shall not cast a vote under this Plan unless
- (a) the individual presents a document signed by the producer indicating the name of the person who may vote for the producer, or
 - (b) the individual makes a declaration in writing stating that
 - (i) the individual is a representative of the eligible producer, and
 - (ii) the individual has not previously voted in the election or on the matter in respect of which the individual wishes to cast a vote.
- (7) A declaration made under subsection (6)(b) must be made in writing before the returning officer or the deputy returning officer prior to the vote being cast.
- (8) An individual cannot at any one time be a representative under this section for more than one eligible producer.
- (9) A representative shall not vote or hold office before the representative's appointment is filed in accordance with subsection (5).

Annual Commission meeting

20(1) An annual Commission meeting must be held for the purposes of

- (a) providing information with respect to the Commission,
- (b) providing suggestions and recommendations to the board, and
- (c) electing a director-at-large, when necessary to do so.

(2) An annual Commission meeting must be held

- (a) once in each fiscal year, and
- (b) within 15 months following the date of the commencement of the last annual Commission meeting.

Special Commission meetings

21 The Commission must hold a special Commission meeting

- (a) when requested to do so by the Council, or
- (b) on the written request of not less than 25 eligible producers.

Calling of meetings

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

(2) The Commission must

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

(3) The notice under subsection (2) must state the time, place, date and purpose of the meeting.

(4) The Commission may provide notice under this section in any form or in any manner the Commission considers appropriate.

Quorum

23 The quorum necessary for the conduct of business at an annual Commission meeting or a special Commission meeting is not fewer than 25 eligible producers.

**Division 2
Regions****Regions**

24(1) For the purpose of this Plan, Alberta is divided into 5 regions as set out in the Schedule to this Plan.

(2) Each region is entitled to have up to 2 regional directors.

(3) In order to be eligible as a regional director, an individual must

- (a) be an eligible producer under this Plan, and
- (b) carry on production within the region.

Regional representatives

25(1) Each region may elect up to 3 eligible producers who carry on production within the region to

- (a) act as a regional representative for producers in the region,
- (b) assist with the organization of the annual region meeting,
- (c) provide advice to the regional directors and the board,
- (d) be appointed by the board to sit as a member of a committee established by the board, and
- (e) be appointed by the board to represent the Commission on any task force, committee, group or organization of which the Commission is a member.

(2) The regional representatives are to be elected at the annual region meeting and take office at the conclusion of the annual region meeting at which they were declared elected.

(3) Regional representatives remain in office for three years following the annual region meeting at which they were elected.

(4) Regional directors may appoint eligible producers to fill vacant regional representative positions for the unexpired portion of the term.

(5) Regional directors must notify the Commission of any election result or appointment of regional representatives.

Annual region meeting

26(1) An annual region meeting must be held every fiscal year in each region.

(2) The annual region meeting must

- (a) be organized by the regional directors and regional representatives, and
- (b) be financed by the Commission.

(3) The purposes of the annual region meeting are

- (a) when necessary, to conduct the election of regional directors to the board,
- (b) when necessary, to conduct elections for regional representatives,
- (c) to provide the producers of the region
 - (i) information concerning the Commission and the operation of the Plan, and
 - (ii) an opportunity for eligible producers to provide the Commission suggestions and recommendations,

and

- (d) to provide a forum for the producers of a region.

(4) The time, place and date of any annual region meeting is to be set by the regional director for that region.

(5) The Commission is to notify all of the eligible producers who carry out production of the regulated product within a region of any annual region meeting for that region.

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

(7) Only eligible producers who carry on production within the region are eligible to vote in any election for regional directors or regional representatives for that region.

(8) The quorum necessary for the conduct of business at an annual region meeting is not fewer than 10 eligible producers.

Division 3 Board of Directors

Board of directors

- 27(1)** The Commission shall have a board made up of 11 directors.
- (2)** The Commission shall have up to 10 regional directors and one director-at-large.
- (3)** The regional directors and the director-at-large must be eligible producers.

Director-at-large

- 28(1)** The eligible producers for all the regions are entitled to elect, in accordance with this Plan, a director-at-large to represent the eligible producers in general.
- (2)** The term of office for a director-at-large is 3 years.
- (3)** Any person who is eligible to serve as director-at-large may be nominated for election as director-at-large.
- (4)** Eligible producers from any region may vote for the director-at-large at an annual Commission meeting.

Responsibilities of board of directors

- 29(1)** The responsibilities of the Commission, the authority delegated to the Commission by the Council and the direction, administration and management of the Commission's work, business and affairs, including the control and management of all the assets owned, held or acquired by the Commission are vested in the board.
- (2)** The board has the power to do all things that are necessary to carry out the purpose of this Plan and the responsibilities and authority of the Commission.
- (3)** The board may authorize any person, entity or committee to exercise any of the powers of the board as set forth in this Plan or otherwise.
- (4)** Where a person, entity or committee is authorized under subsection (3) to exercise any power of the board,
- (a)** that person, entity or committee is to report back to the board with respect to the exercise of that power, and

- (b) the board retains a supervisory function to oversee the actions of that person, entity or committee in the exercise of that power.

Quorum

30(1) At a meeting of the board, the quorum necessary for the conduct of business is a majority of the directors holding office at the time.

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

Committees

31(1) The board may form committees to provide the board with advice on a wheat class or multiple wheat classes of the regulated product or to provide the board with advice on any other matter.

(2) When forming committees the board is to consider directors and regional representatives as committee members.

(3) The board may also appoint knowledgeable industry experts and advisors to the committees.

Chair and other officers

32(1) Following the annual Commission meeting in each year, or when the chair or the vice-chair positions are vacant, the directors shall elect from among the members of the board the officers of the Commission, including the chair and vice-chair of the Commission.

(2) The remuneration to be paid to the directors, regional representatives, committee members and officers of the Commission may, from time to time, be prescribed by the board.

Term of office

33(1) Each director, including a director-at-large, may

(a) hold office for a term of up to 3 years, and

(b) only hold office for a maximum of

(i) 2 consecutive terms, or

(ii) 6 years,

whichever is the longer period of time.

(2) Notwithstanding subsection (1)(b), an eligible producer who was a director is once again eligible to be elected as a director if at least one year has elapsed since that eligible producer's last term as a director concluded.

(3) The term of office of a director

- (a) commences on the conclusion of the annual Commission meeting at which the director was declared elected, and
- (b) expires on the conclusion of the annual Commission meeting that takes place in the year that the director's term of office is to expire.

Removal from office

34(1) The board may, on a motion passed by two thirds of the directors currently in office at a meeting of the board of directors, remove a director from office if the director fails to abide by any of the Commission's policies.

(2) Where a majority of the directors vote in favour of a motion to remove the chair or vice-chair of the Commission, that person's position as chair or vice-chair of the Commission on the passing of the motion becomes vacant, but that individual remains a director.

Filling vacancies by appointment

35(1) If a vacancy occurs on the board, the remaining directors may, with the approval of the Council, appoint an individual to fill the position from among the eligible producers who are eligible to be elected as a director.

(2) When appointing an individual to fill a director vacancy under subsection (1), the board must consider regional representatives who are eligible to be elected as a director.

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

(4) Where

- (a) in accordance with this section a person is appointed to fill a vacancy, and
- (b) the term of office served by that person pursuant to that appointment is not greater than 18 months,

the time served by that person as a director pursuant to that appointment is not to be taken into consideration for the purposes of section 33.

- (5) If the Council declares an election invalid, the Council may
- (a) direct that the Commission fill the vacancy pursuant to this section, or
 - (b) direct that another election be held.

Part 3

Voting and Elections

Election of directors

- 36(1)** The election for regional directors is to be conducted, subject to section 41(5), at the annual region meetings.
- (2)** The Commission is to solicit nominations for the position of director for each region and director-at-large.
- (a) by publishing a notice in the Commission's newsletter, or
 - (b) by any other means of notice that the board determines.
- (3)** A nomination referred to in subsection (2) must be
- (a) in writing and filed at the Commission's office by a date fixed by the Commission,
 - (b) signed by at least 3 eligible producers in respect of which the election is to be held, and
 - (c) accompanied by the written consent of the eligible producer who is being nominated as a director.

Eligibility to vote

- 37(1)** An eligible producer is eligible to vote
- (a) on any question put to a vote at an annual Commission meeting or a special Commission meeting if the eligible producer is present at the meeting at which the vote is held, and
 - (b) in any election for a regional director or regional representative that is conducted at an annual region meeting if the eligible producer is present at that meeting and eligible to vote in such an election.
- (2)** An eligible producer, irrespective as to whether the eligible producer is or is not an individual, may vote once only on each matter put to vote.

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

Must be on list of eligible producers

38 An eligible producer shall only cast a vote under this Plan if the eligible producer's name appears on the current list of eligible producers.

Returning officer

39(1) The Commission is to appoint a returning officer for the purposes of and in connection with any director election or vote taken at an annual region meeting, an annual Commission meeting or a Special Commission meeting under this Plan.

(2) The returning officer may appoint individuals as deputy returning officers to assist in the conduct of elections and votes under this Plan.

(3) The returning officer

- (a) must compile and maintain a voters list of eligible producers who are entitled to vote under this Plan;
- (b) is to ensure that a person does not cast a vote, except in accordance with this Plan;
- (c) must permit scrutiny of the actions of the returning officer and the deputy returning officers by a scrutineer in respect of the conduct of a vote taken under this Plan.

(4) Unless otherwise directed by the Council, no person shall destroy any records or ballots in respect of a vote or election held under this Plan until 90 days have elapsed from the day on which the vote was taken.

Tie votes

40 If there occurs a tie vote for the position of director or director-at-large, the returning officer or deputy returning officer must immediately select by a draw, drawn from the names of all the tied candidates, the name of the candidate to fill the position and the person whose name is drawn is deemed to have been elected to that position.

Controverted election

41(1) In respect of director elections, if an eligible producer

- (a) questions
 - (i) the eligibility of a candidate,
 - (ii) the eligibility of a voter,
 - (iii) any matter relating to a ballot or the tabulation of ballots, or
 - (iv) any other irregularity with respect to the conduct of an election,

and

- (b) seeks to have the election declared invalid and the position declared vacant,

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

(2) If, within the 15-day period referred to in subsection (1), the Council has not received an application under subsection (1), a person elected at that election is deemed to be duly elected.

(3) On receipt of an application under subsection (1), the Council must consider the matter and may

- (a) declare the election to be proper and the position filled, if, in the opinion of the Council, there is no basis for the application,
- (b) declare the election to be proper and the position filled, notwithstanding that there is a basis for the application, if, in the opinion of the Council,
 - (i) the basis for application did not materially affect the result of the election, and
 - (ii) the election was conducted substantially in accordance with this Plan and the Act,

or

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

(4) Notwithstanding that an election is declared void and a position is declared vacant under subsection (3)(c), the term of office of the position declared vacant is nevertheless deemed to have

commenced on the day that the term of office would commence under this Plan.

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

- (a) order that, within the time that the Council considers proper, a special Commission meeting be held and an election be conducted to fill the vacant position, or
- (b) appoint from among the eligible producers who are eligible to be elected to the position, an individual to fill the vacant position.

(6) Where a person fills a position under subsection (5), that person is to serve for the unexpired portion of the term.

Part 4 Transitional Provisions, Review and Repeal

Transitional re directors

42(1) Notwithstanding sections 25(3) and 33(1), at the initial election for directors and regional representatives held after this Plan comes into force,

- (a) a maximum of 2 directors and a maximum of 3 regional representatives are to be elected in each of regions 1 and 5 for a term of one year,
- (b) a maximum of 2 directors and 3 regional representatives are to be elected in each of regions 2 and 4 for a term of 2 years, and
- (c) a maximum of 2 directors and 3 regional representatives are to be elected in region 3 for a term of 3 years.

(2) At the conclusion of the terms referred to in subsection (1), directors are to be elected for a term of office in accordance with section 33(1) and regional representatives are to be elected for a term of office in accordance with section 25(3).

(3) In determining under section 33 whether an eligible producer is eligible to be a director, the term of office served under subsection (1)(a) or (b) is not to be considered as a term of office.

Transitional

43(1) In this section,

- (a) “former Regulations” means *Alberta Winter Wheat Producers Marketing Plan Regulation* (AR 112/99) and the *Alberta Soft Wheat Producers Plan Regulation* (AR 23/99);
 - (b) “new Plan” means the Alberta Wheat Commission Plan established under section 3 of this Regulation;
 - (c) “previous boards” means the board of directors of the Alberta Soft Wheat Producers Commission and the board of directors of the Alberta Winter Wheat Producers Commission;
 - (d) “previous Commissions” means the Alberta Soft Wheat Commission continued under the *Alberta Soft Wheat Producers Plan Regulation* (AR 23/99) and the Alberta Winter Wheat Producers Commission continued under the *Alberta Winter Wheat Producers Marketing Plan Regulation* (AR 112/99);
 - (e) “previous Plans” means the Alberta Winter Wheat Producers Marketing Plan continued under the *Alberta Winter Wheat Producers Marketing Plan Regulation* (AR 112/99) and the Alberta Soft Wheat Producers Plan continued under the *Alberta Soft Wheat Producers Plan Regulation* (AR 23/99) as they read immediately before the coming into force of this Regulation.
- (2) On the coming into force of this Regulation, the directors of the board are the directors appointed by the Council until they are replaced by directors who are elected under section 42.
- (3) All assets, liabilities and obligations of the previous Commissions are assumed by the new Commission.
- (4) Any obligation or liability that a person has
- (a) under the previous Plans is deemed to be an obligation or liability, as the case may be, under the new Plan, or
 - (b) with or in respect of the previous boards, is deemed to be an obligation or liability, as the case may be, with or in respect of the new board.
- (5) Any reference to the previous boards or the previous Plans in any document, agreement or regulation that is subsisting or in force immediately before the coming into force of the new Plan is deemed to be a reference to the new board or the new Plan, as the case may be.

(6) Any proceeding that has been commenced but not completed under the previous Plans or in respect of the previous boards may be continued and completed under the new Plan or in respect of the new board.

(7) Any matters or business of the previous boards that was in progress at the time of the coming into force of the new Plan may be continued by the board.

(8) An eligible producer under the former Regulations continues to be an eligible producer under this Regulation for the 2012-2013 and 2013-2014 fiscal years.

(9) Notwithstanding section 45, sections 11 and 12 of the *Alberta Winter Wheat Producers Marketing Plan Regulation* (AR 112/99), sections 2 and 5 of the *Alberta Winter Wheat Producers Marketing Regulation* (AR 121/99), sections 11 and 12 of the *Alberta Soft Wheat Producers Plan Regulation* (AR 23/99) and sections 2 and 5 of the *Alberta Soft Wheat Producers Marketing Regulation* (AR 34/99) are deemed to continue in force with the following modifications:

- (a) a producer under the former Regulations is deemed to be a producer under this Regulation;
- (b) regulated product under the former Regulations is deemed to be a regulated product under this Regulation;
- (c) Commission under the former Regulations is deemed to be the Commission under this Regulation.

(10) A request for a refund of a service charge paid under the former Regulations shall be made to the Commission, and the processing of those refunds shall be made in accordance with the provisions set out in subsection (9).

(11) Subsections (9) and (10) expire on December 31, 2012.

Review

44 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before April 30, 2018.

Repeal

45 Subject to section 43, the *Alberta Soft Wheat Producers Plan Regulation* (AR 23/99) and the *Alberta Winter Wheat Producers Marketing Plan Regulation* (AR 112/99) are repealed.

Coming into force

46 This Regulation comes into force on August 1, 2012.

**Schedule
Boundaries of the Regions**

1 Region 1 is made up of the area that is included in the following:

- (a) Cypress County;
- (b) County of Forty Mile No. 8;
- (c) County of Warner No. 5;
- (d) County of Lethbridge;
- (e) Municipal District of Taber;
- (f) County of Newell No. 4;
- (g) Cardston County;
- (h) Municipal District of Pincher Creek No. 9;
- (i) Municipal District of Willow Creek No. 26;
- (j) Improvement District No. 4 (Waterton);
- (k) Municipality of Crowsnest Pass;
- (l) Municipal District of Ranchland No. 66;
- (m) any city, town, village or summer village that is encompassed by the area described in clauses (a) to (l).

2 Region 2 is made up of the area that is included in the following:

- (a) Special Area No. 2;
- (b) Special Area No. 3;
- (c) Special Area No. 4;
- (d) Vulcan County;
- (e) Wheatland County;
- (f) Starland County;

- (g) Kneehill County;
- (h) Municipal District of Foothills No. 31;
- (i) Municipal District of Rocky View No. 44;
- (j) Mountain View County;
- (k) Municipal District of Acadia No. 34;
- (l) Municipal District of Bighorn No. 8;
- (m) Improvement District No. 9 (Banff);
- (n) Kananaskis Improvement District;
- (o) any city, town, village or summer village that is encompassed by the area described in clauses (a) to (n).

3 Region 3 is made up of the area that is included in the following:

- (a) Municipal District of Provost No. 52;
- (b) County of Paintearth No. 18;
- (c) County of Stettler No. 6;
- (d) Flagstaff County;
- (e) Municipal District of Wainwright No. 61;
- (f) Red Deer County;
- (g) Lacombe County;
- (h) Ponoka County;
- (i) Clearwater County;
- (j) any city, town, village or summer village that is encompassed by the area described in clauses (a) to (i).

4 Region 4 is made up of the area that is included in the following:

- (a) Camrose County;
- (b) Beaver County;
- (c) County of Minburn No. 27;

- (d) County of Vermilion River No. 24;
- (e) County of Two Hills No. 21;
- (f) Lamont County;
- (g) County of Wetaskiwin No. 10;
- (h) Leduc County;
- (i) Brazeau County;
- (j) Parkland County;
- (k) Strathcona County;
- (l) Sturgeon County;
- (m) Municipal District of Bonnyville No. 87;
- (n) Lac La Biche County;
- (o) County of St. Paul No. 19;
- (p) Smoky Lake County;
- (q) Regional Municipality of Wood Buffalo;
- (r) Improvement District No. 24 (Wood Buffalo);
- (s) Improvement District No. 13 (Elk Island);
- (t) any city, town, village or summer village that is encompassed by the area described in clauses (a) to (s).

5 Region 5 is made up of the area that is included in the following:

- (a) Lac Ste. Anne County;
- (b) County of Barrhead No. 11;
- (c) Westlock County;
- (d) Woodlands County;
- (e) County of Thorhild No. 7;
- (f) Athabasca County;
- (g) Yellowhead County;

- (h) Northern Sunrise County;
- (i) Municipal District of Big Lakes;
- (j) Municipal District of Opportunity No. 17;
- (k) Municipal District of Lesser Slave River No. 124;
- (l) Clear Hills County;
- (m) County of Northern Lights;
- (n) Mackenzie County;
- (o) Municipal District of Greenview No. 16;
- (p) County of Grande Prairie No. 1;
- (q) Municipal District of Smoky River No. 130;
- (r) Birch Hills County;
- (s) Municipal District of Spirit River No. 133;
- (t) Saddle Hills County;
- (u) Municipal District of Fairview No. 136;
- (v) Municipal District of Peace No. 135;
- (w) Improvement District No. 12 (Jasper National Park);
- (x) Municipality of Jasper;
- (y) Improvement District No. 25 (Willmore Wilderness);
- (z) any city, town, village or summer village that is encompassed by the area described in clauses (a) to (y).