



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

# **ALBERTA GRAINS PLAN REGULATION**

## **Alberta Regulation 102/2023**

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### **Extract**

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Alberta King's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952

E-mail: [kings-printer@gov.ab.ca](mailto:kings-printer@gov.ab.ca)  
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**ALBERTA REGULATION 102/2023**  
**Marketing of Agricultural Products Act**  
**ALBERTA GRAINS PLAN REGULATION**

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#### **Definitions**

**1** In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (b) “annual region meeting” means an annual meeting, held in accordance with the bylaws, of the eligible producers who carry out production of a regulated product within the region in accordance with the bylaws;
- (c) “barley” means any grain that
  - (i) is classified as *Hordeum vulgare* L., and
  - (ii) is identified as the seed or grain of a cereal grass grown in Alberta and used for human or animal consumption, for malt, for commercial purposes or for seed;
- (d) “board” means the board of directors of the Commission;
- (e) “bylaws” means the bylaws made by the Commission under section 26(2.1) of the Act;
- (f) “Commission” means the Commission referred to in section 7;
- (g) “Council” means the Alberta Agricultural Products Marketing Council;
- (h) “crop year” means a 12-month period commencing on August 1 and terminating on the following July 31;
- (i) “dealer” means a person who purchases or acquires regulated product from a producer and includes
  - (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;
- (j) "director" means a director of the Commission;
- (k) "eligible producer" means a producer who qualifies as an eligible producer under the bylaws;
- (l) "person" means a person as defined in the *Interpretation Act* and includes
  - (i) a partnership as defined in the *Partnership Act*,
  - (ii) an unincorporated organization that is not a partnership referred to in subclause (i), and
  - (iii) a 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);
- (m) "Plan" means the Alberta Grains Plan referred to in section 3;
- (n) "producer" means a person who
  - (i) grows barley, wheat or both barley and wheat for sale on one or more parcels of land in Alberta, or
  - (ii) is entitled to a share of the barley or wheat or both grown on any land in Alberta under a crop share arrangement;
- (o) "regulated product" means the following:
  - (i) barley;
  - (ii) wheat;
- (p) "special region meeting" means a special meeting, held in accordance with the bylaws, of the eligible producers who carry out production of a regulated product within the region in accordance with the bylaws;
- (q) "wheat" means any wheat that falls under the genus and species *Triticum aestivum* L. em Thell and *Triticum durum* and includes

- (i) cultivars of the wheat classes that fall under the *Canada Grain Regulations* (Canada), (CRC, c. 889) made under the *Canada Grain Act* (Canada), and
- (ii) all eligible grades of wheat classes as specified by the Canadian Grain Commission grade standards, including tough, damp and feed wheat;
- (r) “wheat class” means a class of wheat specified in the *Canada Grain Act* (Canada) and the *Canada Grain Regulations* (Canada), (CRC, c. 889) made under the *Canada Grain Act* (Canada).

#### **Designation of agricultural products**

- 2** Barley and wheat are designated as agricultural products for the purposes of the Act.

## **Part 1 General Operation of Plan**

### **Division 1 Plan**

#### **Plan established**

- 3** A Plan with the name “Alberta Grains Plan” is established.

#### **Termination of Plan**

- 4** The Plan does not terminate at the conclusion of a specific period of time and remains in force unless otherwise terminated in accordance with the Act.

#### **Application of Plan**

- 5** The Plan applies
- (a) to all of Alberta,
  - (b) to all producers in Alberta who produce or market a regulated product, and
  - (c) for the purposes of section 9(a), (b), (c), (d), (f) and (h),
    - (i) to dealers, and
    - (ii) to any person who is not a producer or dealer and who markets or processes a regulated product.

**Purposes of Plan**

**6(1)** The purposes of the Plan are to do the following:

- (a) to initiate and carry out projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of the regulated products;
- (b) to initiate, conduct and carry on research and studies with respect to
  - (i) the production, handling, marketing and processing of the regulated products, and
  - (ii) the development and use of the regulated products that improves the demand, agronomic competitiveness, sustainability and profitability of the regulated products;
- (c) to assist, educate and inform producers, dealers and processors in developing and improving methods regarding the production, processing and marketing of the regulated products;
- (d) to initiate and carry out programs, including sales promotion programs and consumer education programs, to expand the market awareness and demand for the regulated products, both within Alberta and in export markets;
- (e) to assist generally in the development and promotion of the barley and wheat industries in Alberta, including the development and promotion of export markets for the regulated products;
- (f) to advise governments on matters concerning the barley and wheat industries;
- (g) to cooperate with the Government of Canada and the Government of Alberta with respect to the maintenance of the quality and standards of the regulated products;
- (h) to participate in programs under the *Agricultural Marketing Programs Act* (Canada);
- (i) to work with any organization that has similar objectives to those of the Commission.

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

## **Division 2**

### **Administration of Plan by Commission**

#### **Commission established**

**7** A Commission with the name “Alberta Grains” is established.

#### **Functions of Commission**

**8** The Commission

- (a) is responsible for the operation, regulation, supervision and enforcement of the Plan, the regulations made by the Commission and the bylaws, and
- (b) may be authorized, in accordance with section 50 of the Act, 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), the *Canada Grain Act* (Canada) or any Canada Act.

#### **Regulations to operate Plan**

**9** The Commission is authorized under section 26(1) of the Act to make, with the approval of the Council, regulations

- (a) requiring any person who produces, markets or processes a regulated product to furnish to the Commission any information or record relating to the production, marketing or processing of a regulated product that the Commission considers necessary;
- (b) requiring persons other than producers to be licensed under the Plan before they become engaged in the marketing and processing, or either of those functions, of a regulated product;
- (c) governing the issuance, suspension or cancellation of a licence issued under the Plan;
- (d) providing for
  - (i) the assessment, charging and collection of service charges from producers from time to time for the purposes of the 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 refunded to a producer;



- (f) requiring any person who receives a 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 the 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 the Plan.

#### **Financing of Plan**

**10** In accordance with the regulations, the Plan is to be financed by

- (a) the charging and collection of service charges from producers, and
- (b) any other money payable to or received or accrued by the Commission.

#### **Service charges refundable**

**11(1)** In accordance with the regulations, a service charge is refundable to a producer on request of the producer.

**(2)** In the event that within one crop year

- (a) the eligible producers requesting a refund of the service charges constitute more than 35% of the existing eligible producers, and
- (b) those eligible producers requesting a refund account for at least 35% of the service charges collected during the current crop year,

the Council may direct that the continued operation of the Plan is to be subject to the approval of a majority of producers at a plebiscite to be held under the direction of the Council in accordance with the Act.

(3) Within 150 days following the end of a crop year, the Commission must report to the Council the refunds made in accordance with this section and the regulations for that crop year.

#### **Indemnification fund**

**12** The Commission shall not establish a fund under section 34 or 35 of the Act.

## **Part 2 Governance of Plan**

#### **Regions**

**13(1)** For the purpose of the Plan and the bylaws, Alberta is divided into 6 regions.

(2) The area included in each region is as set out in the bylaws.

#### **Composition of Commission**

**14** The Commission consists of a board made up of 12 directors, with 2 directors being elected or appointed from each region in accordance with the Plan and the bylaws.

#### **Election of directors**

**15(1)** Subject to section 18(5)(a), the election of directors is to be conducted at or in conjunction with the annual region meetings in accordance with the bylaws.

(2) Only eligible producers who are eligible to vote in a region in accordance with the bylaws are eligible to vote in an election for a director for that region.

#### **Insufficient attendance**

**16(1)** If an election is held under the Plan and an insufficient number of eligible voters are in attendance at the meeting in accordance with the bylaws,

(a) the election is void, and

(b) the position for which the election was held is vacant.

(2) If a position is vacant under subsection (1), the remaining directors may appoint an individual to fill the position in accordance with section 17.

(3) Notwithstanding that a position is vacant under subsection (1), the bylaws may provide that the term of office of the position is

deemed to have commenced as if a person had been elected to the position.

#### **Filling vacancies by appointment**

**17** Subject to section 18(5), if a vacancy occurs on the board, the remaining directors, in accordance with the bylaws and with the approval of the Council, may appoint from among the eligible producers who are eligible to be elected as a director an individual to fill the vacant position for the unexpired portion of the term.

#### **Election irregularities**

**18(1)** If an eligible producer questions

- (a) the eligibility of a candidate,
- (b) the eligibility of a voter,
- (c) any matter relating to a ballot or the tabulation of ballots, or
- (d) any other irregularity with respect to the conduct of an election,

that eligible producer, not later than 15 days after the day of the election, may apply in writing to the Council to have the election declared void and the position declared vacant.

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

**(3)** The Council shall not consider an application under subsection (1) that is not received by the Council within the 15-day period referred to in subsection (1).

**(4)** 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 the application did not materially affect the result of the election, and

- (ii) the election was conducted substantially in accordance with the Plan, the bylaws 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.

(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 region meeting be held and an election conducted in accordance with the bylaws to fill the vacant position for the unexpired portion of the term, or
- (b) notify the Commission that the position is vacant and
  - (i) in the case of a director, that an individual may be appointed to fill the vacant position in accordance with section 17, or
  - (ii) if the bylaws provide for the election of delegates, in the case of a delegate, that an individual may be appointed to fill the vacant position in accordance with the bylaws and, where the Council considers that Council approval is warranted in the circumstances, with the approval of the Council.

(6) Notwithstanding that an election is declared void and a position is declared vacant under subsection (4)(c), the bylaws may provide that the term of office of the position is deemed to have commenced as if an individual had been elected to the position.

### **Part 3**

## **Review, Transitional, Repeal and Coming into Force**

#### **Review**

**19** In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before July 31, 2030.

#### **Transitional**

**20(1)** In this section,

- (a) “former regulations” means the *Alberta Barley Plan Regulation* (AR 111/99) and the *Alberta Wheat Commission Plan Regulation* (AR 134/2012);
  - (b) “new board” means the board of directors of the new Commission, whether appointed as referred to in subsection (2) or elected in accordance with the new Plan and the bylaws;
  - (c) “new Commission” means the Commission referred to in section 7;
  - (d) “new Plan” means the Alberta Grains Plan referred to in section 3;
  - (e) “previous boards” means the board of directors of the Alberta Barley Commission and the board of directors of the Alberta Wheat Commission;
  - (f) “previous Commissions” means the Alberta Barley Commission and the Alberta Wheat Commission under the former regulations;
  - (g) “previous Plans” means the Alberta Barley Plan continued under the *Alberta Barley Plan Regulation* (AR 111/99) and the Alberta Wheat Commission Plan established under the *Alberta Wheat Commission Plan Regulation* (AR 134/2012) 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 new board are the directors appointed by the Council under section 19 of the Act until they are replaced by directors who are elected in accordance with the new Plan and the bylaws.
- (3)** All assets, liabilities and obligations of the previous Commissions are assumed by the new Commission.
- (4)** All funds held by the previous Commissions immediately before the coming into force of this Regulation must be used by the new Commission in accordance with the new Plan.
- (5)** Any obligation or liability that a person has
- (a) under the previous Plans is deemed to be an obligation or liability under the new Plan, or
  - (b) with or in respect of the previous boards is deemed to be an obligation or liability with or in respect of the new board.

- (6) Any reference to the previous boards, previous Commissions or previous Plans in any document, agreement or regulation that is subsisting or in force immediately before the coming into force of this Regulation is deemed to be a reference to the new board, new Commission or new Plan.
- (7) Any proceeding that has been commenced but has not been completed under the previous Plans or in respect of the previous boards or previous Commissions may be continued and completed under the new Plan or in respect of the new board or new Commission.
- (8) Any matters or business of the previous boards or previous Commissions that were in progress at the time of the coming into force of this Regulation may be continued by the new board or new Commission.
- (9) A person who, immediately before the coming into force of this Regulation, was employed by a previous Commission becomes, on the coming into force of this Regulation, an employee of the new Commission at the same remuneration and subject to the same terms and conditions of employment as applied to that person immediately before the coming into force of this Regulation.
- (10) There is no break or interruption in the employment of a person whose employment is affected by subsection (9).
- (11) The employment of a person to whom subsection (9) applies may be terminated or the terms and conditions of employment varied on or after the day this Regulation comes into force in the same manner and to the same extent as before that day.
- (12) Subsection (9) does not apply to a director of a previous Commission.
- (13) A person who was an eligible producer under one or both of the former regulations immediately before the coming into force of this Regulation is deemed to be an eligible producer under this Regulation for the 2023-2024 crop year.
- (14) Notwithstanding section 21, the following provisions are deemed to continue in force with the modifications set out in subsection (15):
- (a) sections 11 and 12 of the *Alberta Barley Plan Regulation* (AR 111/99);
  - (b) sections 2 and 4 of the *Alberta Barley Commission Regulation* (AR 123/99);

- (c) sections 11 and 12 of the *Alberta Wheat Commission Plan Regulation* (AR 134/2012);
- (d) sections 2, 4 and 5 of the *Alberta Wheat Commission Regulation* (AR 137/2012).

**(15)** The modifications referred to in subsection (14) are as follows:

- (a) a producer or dealer under one or both of the former regulations is deemed to be a producer or dealer under this Regulation;
- (b) a regulated product under the former regulations is deemed to be a regulated product under this Regulation;
- (c) a previous Commission is deemed to be the new Commission.

**(16)** A legal action may be commenced under the new Plan to enforce the payment of service charges that arose and were payable under the previous Plans.

**(17)** Interest is payable in accordance with the new Plan on any late payment of service charges that became due under the previous Plans.

**(18)** A request for a refund of a service charge paid under the former regulations must be made to the new Commission, and the processing of the refund must be made in accordance with the provisions set out in subsection (14) as modified by subsection (15).

**(19)** Subsections (14), (15) and (18) expire on July 31, 2024.

#### **Repeal**

**21** Subject to section 20, the following regulations are repealed:

- (a) *Alberta Barley Plan Regulation* (AR 111/99);
- (b) *Alberta Wheat Commission Plan Regulation* (AR 134/2012).

#### **Coming into force**

**22** This Regulation comes into force on August 1, 2023.



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