

Proposed Amendments

Alberta Canola Producer Marketing Regulation & Alberta Canola Producers Marketing Plan Regulation

Proposed Amendments to the *Alberta Canola Producers Marketing Regulation*

The *Alberta Canola Producers Marketing Regulation* (AR 142/1998), under the *Marketing of Agricultural Products Act*, sets out the day-to-day operations of the Alberta Canola Producers Commission (ACPC). The Regulation describes how the Commission will administer the Alberta Canola Producers Marketing Plan and how delegated powers will be used. The Regulation describes service charges, the service charge refund process, and dealer licensing and reporting requirements.

The ACPC has completed a review of their regulations and is proposing a minor amendment to the *Alberta Canola Producers Marketing Regulation* to extend the expiry date, as well as make amendments to the *Alberta Canola Producers Marketing Plan Regulation*.

Section 26 of the *Marketing of Agricultural Products Act* provides regulation making authority for the amendment regulation.

This amendment regulation will come into effect upon filing. Proposed amendments to the *Alberta Canola Producers Marketing Regulation* are outlined in table below:

Proposed	Current	Rationale
Expiry Amend s. 22 by replacing May 31, 2018 with May 31, 2023.	Expiry 22. For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on May 31, 2018.	Extending the date of expiry to coincide with the five year mandatory regulatory review process followed by Marketing Council to assure the regulations under the <i>Marketing of Agricultural Products Act</i> remain relevant and accurate.

Proposed Amendments to the *Alberta Canola Producers Marketing Plan Regulation*

The *Alberta Canola Producers Marketing Plan Regulation* (AR 108/1998), under the *Marketing of Agricultural Products Act*, establishes the Alberta Canola Producers Commission (ACPC), defines the regulated product, sets the purpose, administration, and financing of the Plan, and outlines the governance framework and election processes for the Board of Directors. The Regulation also

establishes regions and identifies to whom the Plan applies (producers, dealers, and persons who market or process the regulated product in Alberta).

The ACPC has completed a review of their regulations and is proposing amendments to the *Alberta Canola Producers Marketing Plan Regulation* (Plan Regulation), as well as the *Alberta Canola Producers Marketing Regulation*.

Amendments to the Plan Regulation will:

- Update the reference to the definition of auditor due to a change in legislation.
- Clarify the definition of the regulated product to ensure it is clear the regulated product is not canola used for planting (seeds).
- Clarify that ACPC can be a member of any organization if it advances the interests of its membership.
- Include a provision for producers who are not currently members as per the Plan Regulation to voluntarily pay service charges to receive the benefits of membership.
- Clarify provisions on removing directors from office, filling vacancies by appointment, and tie votes. This clarification is necessary to ensure the best practices of governance are in place and alignment with regulations of other agricultural commissions.
- Establish new timeframe for reviewing the regulation.

Section 23 of the *Marketing of Agricultural Products Act* provides regulation making authority for the amendment regulation. This amendment regulation will come into force upon filing. Proposed amendments outlined in table below:

Proposed	Current	Rationale
<p>Definitions Replace current 1(c.2) with: “auditor” means a professional accounting firm registered under the <i>Chartered Professional Accountants Act</i> and authorized to perform an audit engagement;</p>	<p>Definitions 1 (c.2) “auditor” means a person registered under the <i>Regulated Accounting Profession Act</i> or a firm or partnership of those persons;</p>	<p>This is a consequential amendment resulting from a new statute, the <i>Chartered Professional Accountants Act</i> (CPA Act) that replaced Alberta’s <i>Regulated Accounting Profession Act</i> and was proclaimed on July 1, 2015. The new CPA Act created one designation of Chartered Professional Accountant (CPA) regulated by one body, the Chartered Professional Accountants of Alberta (CPAA).</p>
<p>Definitions Replace current 1 (n) with:</p>	<p>Definitions 1 (n) “regulated product” means canola;</p>	<p>This amendment is necessary to clarify that canola seed grown for the purpose of selling to a farmer to plant or to seed company to sell to farmers to plant (not</p>

Proposed	Current	Rationale
<p>“regulated product” means canola other than canola used for planting;</p>		<p>for the purpose of growing for end user) is exempt from the regulation. This aligns with the <i>Alberta Pulse Growers’ Marketing and Plan Regulation</i>.</p>
<p>Functions of the Commission Replace current section 8(h) with: May become a member of any organization that promotes the interests of producers.</p>	<p>Functions of the Commission 8 (h) may become a member of any agricultural organization.</p>	<p>The Commission is currently restricted in becoming members of organizations only if they are agricultural organizations. There are other organizations that the Commission (and its producer membership) would greatly value being members of that would be of benefit for producers such as the Chamber of Commerce. Removing the restriction of “agricultural” would ensure the Commission could become a member of any organization that promotes the interests of producers.</p> <p>The proposed wording aligns with the Potato Growers of Alberta Plan Regulation 9(j).</p> <p>There are no unintended consequences of removing the agricultural reference from this section.</p>
<p>Add to section 16 (Eligible Producers):</p> <p>Producers may make voluntary payments and the service charge will be based on production for those producers who do not sell the regulated product produced by the producer if there is evidence of production of the regulated product.</p>	<p>New</p>	<p>This provides flexibility for those producing canola for such purposes as selling to a neighbour for livestock feed or on farm seed processing. These producers are not considered producers under the Plan Regulation. This amendment provides the option for producers in these situations to make voluntary payments if they can</p>

Proposed	Current	Rationale
		demonstrate they have grown and sold the regulated product and therefore would be able to get the benefits of being a member of the Alberta Canola Producers Commission.
<p>Failure to elect by mail ballot Amend section 33 to:</p> <p>33 If the eligible producers in a region fail to elect a director by a mail ballot, the election of a director from that region may be carried out at the next annual Commission meeting that is held after the time at which election by a mail ballot was to have been held – a failure to elect at the next annual Commission meeting results in a vacancy that is subject to conditions under section xx.</p>	<p>Failure to elect by mail ballot</p> <p>33 If the eligible producers in a region fail to elect a director by a mail ballot, the election of a director from that region may be carried out at the next annual Commission meeting that is held after the time at which election by a mail ballot was to have been held.</p>	Failure to elect at a subsequent annual Commission meeting can result in vacancies on the Board that remain for upwards to a year or more. Vacancies that are filled as soon as conveniently possible will assure the Board’s continued service to its membership.
<p>Replace section 31 with:</p> <p>Ceases to be a Director An individual ceases to be a director if that individual</p> <ul style="list-style-type: none"> (a) resigns from the position of director; (b) ceases to be an eligible producer; (c) in the case of the individual being the representative of an eligible producer under section 19, ceases to be the representative of the eligible producer; or (d) is absent from 3 consecutive meetings of the Board of Directors 	<p>Removal from office</p> <p>31(1) An individual ceases to be a director if that individual</p> <ul style="list-style-type: none"> (a) resigns from the position of director; (b) ceases to be an eligible producer; (c) in the case of the individual being the representative of an eligible producer under section 19, ceases to be the representative of the eligible producer; (d) is absent from 3 consecutive meetings of the Board of Directors without reasons the Board of Directors consider adequate. 	Clarifies the removal from office (ceases to be a director) provision from the filling vacancies by appointment. Removal from office results in a vacancy; however, these provisions should not be conflated with the vacancy by appointment provision as this creates confusion. This amendment aligns with other Marketing Board and Commission Regulations.

Proposed	Current	Rationale
<p>without reasons the Board of Directors consider adequate.</p> <p>When an individual ceases to be a director under this section a vacancy is created and may be filled subject to section xx.</p>	<p>(2) Where a vacancy occurs on the Board of Directors under this section, the Board of 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.</p> <p>(3) Where an individual is appointed as a director under subsection (2), that director shall serve for the unexpired portion of the term and,</p> <p>(a) if the individual is appointed within the first half of the term, it shall be considered the appointed director's first full term, and</p> <p>(b) if the individual is appointed within the 2nd half of the term, it shall not be considered the appointed director's first full term.</p>	
<p>Filling vacancies by appointment</p> <p>section xx 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. Where an individual is appointed as a director, that director shall serve for up to the unexpired portion of the term and,</p> <p>(a) if the individual is appointed within the first half of the term, it shall be</p>	<p>New</p>	<p>Clarifying the removal of office (ceases to be a director) from the provisions of filling vacancies by appointment will align the Regulation with other Marketing Board and Commission Plan Regulations (e.g., the Alberta Wheat Commission Plan Regulation). This will also clarify that the failure to elect by mail ballot and the subsequent failure to elect during the annual Commission meeting would result in a vacancy where the board, with approval of the Council, could appoint a director.</p>

Proposed	Current	Rationale
<p>considered the appointed director's first full term, and (b) if the individual is appointed within the 2nd half of the term, it shall not be considered the appointed director's first full term.</p>		
<p>Tie Votes</p> <p>Currently, if a mail ballot election results in a tie, the eligible producers have therefore failed to elect a director by means of a mail ballot. The election of the director is to be held at the next annual Commission meeting that is held after the time at which election by means of a mail ballot was to have been held.</p> <p>A tie vote at the annual Commission meeting is processed by immediate re-votes at the annual Commission meeting until such time as the tie is broken.</p>	<p>New</p>	<p>New provisions to outline processes that would be followed in the case of a tie of election by mail and a tie vote at the annual Commission meeting are necessary to ensure clarity of process in the case of a tie encountered with the mail in ballots and during the annual Commission meeting.</p> <p>The new provision for the mail ballot will align the Regulation with other agricultural commission regulations such as the Alberta Oat Growers Commission Plan Regulation.</p> <p>The provision for the tie vote at the annual Commission meeting is in alignment with how the Commission handles tie votes currently through their policy. The Commission would like to have this reflected in the Plan Regulation rather than keeping in policy to ensure transparency for producers.</p>

<p>Review</p> <p>Amend s. 43 by replacing May 31, 2018 with May 31, 2023.</p>	<p>Review</p> <p>43 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before May 31, 2018.</p>	<p>Extending the date of review to comply with the five year mandatory regulatory review process followed by Marketing Council to assure the regulations under the <i>Marketing of Agricultural Products Act</i> remain relevant and accurate.</p>
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