



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

ALBERTA CANOLA PRODUCERS MARKETING PLAN REGULATION

Alberta Regulation 109/2023

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Extract

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ALBERTA REGULATION 109/2023

Marketing of Agricultural Products Act

**ALBERTA CANOLA PRODUCERS
MARKETING PLAN REGULATION**

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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 held in accordance with the bylaws;
- (c) “bylaws” means bylaws made by the Commission pursuant to section 26(2.1) of the Act;
- (d) “canola” means
 - (i) those oilseeds defined as canola, rapeseed or oilseed rape of the Brassica family as used in the *Seeds Act* (Canada),
 - (ii) canola-quality *Brassica juncea*, and
 - (iii) any additional related oilseeds as may be designated as canola by the Commission with the prior approval of the Council;
- (e) “Commission” means the Alberta Canola Producers Commission;
- (f) “Council” means the Alberta Agricultural Products Marketing Council;
- (g) “crop year” means a 12-month period commencing on August 1 and terminating on the following July 31;
- (h) “dealer” means a person purchasing or acquiring regulated product from a producer and includes, but is not limited to,
 - (i) persons who are elevator or grain companies, grain dealers or canola crushers, and
 - (ii) persons who acquire regulated product from the producer for sale on the producer’s behalf;

- (i) “director” means a director of the Commission;
- (j) “eligible producer” means a producer who qualifies as an eligible producer under the bylaws;
- (k) “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);
- (l) “Plan” means the Alberta Canola Producers Marketing Plan referred to in section 3;
- (m) “producer” means a person who
 - (i) grows canola for sale on one or more parcels of land in Alberta, or
 - (ii) is entitled to a share of the canola grown on any land pursuant to a crop share arrangement;
- (n) “regulated product” means canola other than canola used for planting;
- (o) “special Commission meeting” means a special general meeting of the directors and the eligible producers held in accordance with the bylaws.

Designation of agricultural product

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

Part 1 General Operation of Plan

Division 1 Plan

Plan continued

3 The Alberta Canola Producers Marketing Plan continued under the *Alberta Canola Producers Marketing Plan Regulation* (AR 108/98) is amended and continued under this Regulation.

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 pursuant to the Act.

Application of Plan

5 The Plan applies

- (a) to producers in Alberta who produce or market the regulated product, and
- (b) for the purposes of section 9(a), (b), (c) and (f), to dealers and any other persons who are not producers and who market or process the 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 related to research and development and studies with respect to the production, handling, marketing and processing of canola, including research and development and studies concerning the development and use of canola products;
- (b) to assist, educate and inform producers, dealers and processors in developing and improving methods regarding the production, processing and marketing of canola;
- (c) to initiate and carry out projects or programs related to the market development of canola and canola products;
- (d) generally to assist in the development and promotion of the canola industry in Alberta, including the development and promotion of markets for canola and canola products;

- (e) to advise governments on matters concerning the canola industry;
 - (f) to cooperate with the Government of Canada and the Government of Alberta with respect to the maintenance of the quality standards of the regulated product;
 - (g) generally to cooperate with any organizations that carry out activities of interest to the canola industry;
 - (h) to participate in programs under the *Agricultural Marketing Programs Act* (Canada);
 - (i) to act as an agent on behalf of producers in respect of matters relating to the Canada Revenue Agency's Scientific Research and Experimental Development Program as it applies to canola;
 - (j) generally to initiate and carry out projects and programs to stimulate, increase or improve the production or marketing, or both, of the regulated product within Alberta.
- (2) Under the Plan neither the production nor the marketing of the regulated product is controlled or regulated.

Division 2

Operation of Plan by Commission

Commission continued

- 7** The Alberta Canola Producers Commission is continued.

Functions of Commission

- 8** The Commission
- (a) is responsible for the operation, regulation, supervision and enforcement of the Plan and the bylaws and regulations made by the Commission, and
 - (b) in accordance with section 50 of the Act, may 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).

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 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 the 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 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 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 the Plan and the regulations made by the Commission.

Financing the Plan

10 In accordance with the regulations,

- (a) the Plan is to be financed by the charging and collection of service charges from producers,
- (b) every producer engaged in production of the regulated product must pay a service charge on each metric tonne, or part thereof, of the regulated product sold by the producer, and

- (c) the Commission, from time to time, may change the amount of the service charge, but the change is not effective until it has been approved by the eligible producers at an annual Commission meeting or a special Commission meeting.

Service charges refundable

11(1) In accordance with the regulations, a service charge must be 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 comprise 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 eligible producers at a plebiscite to be held under the direction of the Council pursuant to the Act.

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

Indemnification fund

12(1) The Commission, under section 34 of the Act, may establish, maintain and operate one or more funds that may be used to indemnify or protect producers against financial loss suffered by them or on their behalf in the production or marketing, or both, of the regulated product.

(2) The Commission may finance a fund referred to in subsection (1) in accordance with section 34 of the Act.

(3) The Commission shall not operate a fund under section 35 of the Act.

Authorization

13 In accordance with section 50 of the Act, the Commission may be authorized, with respect to the production or marketing, or both, of the regulated product, to perform any function or duty and exercise any power imposed or conferred on the Commission by or under the *Agricultural Products Marketing Act* (Canada).

Part 2 Governance of Plan

Regions

14(1) For the purposes of the Plan and the bylaws, Alberta is divided into 12 regions.

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

Composition of Commission

15(1) The Commission consists of a board of directors made up of 12 directors, being one director from each region.

(2) To be eligible for election as a director, an individual must be an eligible producer who meets the eligibility requirements set out in the bylaws.

(3) In addition to the directors referred to in subsection (1), the Commission may appoint in accordance with the bylaws a non-voting adjunct director to perform the functions set out in the bylaws.

Elections

16(1) Elections to the board of directors must be

- (a) conducted by means of a mail ballot in accordance with the procedures set out in the bylaws, and
- (b) held each year for 4 of the 12 regions.

(2) Notwithstanding subsection (1), if the eligible producers in a region fail to elect a director by mail ballot,

- (a) the election of a director from that region may be carried out at the next annual Commission meeting held after the time at which election by mail ballot was held or was to have been held, or
- (b) an individual may be appointed to fill the vacancy in accordance with section 17 if a director is not elected at the next annual Commission meeting referred to in clause (a).

(3) An eligible producer who is eligible to vote pursuant to the bylaws may vote for any number of candidates not exceeding the number of directors to be elected, notwithstanding that the eligible producer may manage, operate, own, lease or hold equity in 2 or more operations.

Vacancies

17 If a vacancy occurs on the board of directors, the Commission, in accordance with the bylaws and with the approval of the Council, may appoint an individual from among the eligible producers who are eligible to be elected as a director 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 Commission meeting be held and an election conducted to fill the vacant position for the unexpired portion of the term, or
 - (b) notify the Commission that the position is vacant and that the Commission may appoint an individual to fill the vacant position in accordance with section 17.
- (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 and Repeal

Review

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

Transitional

20 Where an individual is a director immediately before the coming into force of this Regulation, that individual continues to be a director until the expiry of that individual's term of office in accordance with the Plan and the bylaws unless

- (a) the individual is removed or resigns from office, or
- (b) the bylaws reduce the term of office for that position.

Repeal

21 The *Alberta Canola Producers Marketing Plan Regulation* (AR 108/98) is repealed.



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