



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

# **ALBERTA OAT GROWERS COMMISSION PLAN REGULATION**

**Alberta Regulation 151/2022**

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Extract

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Alberta Queen's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

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**ALBERTA REGULATION 151/2022**

**Marketing of Agricultural Products Act**

**ALBERTA OAT GROWERS COMMISSION  
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 eligible producers;
- (c) “board” means the board of directors of the Commission;
- (d) “bylaws” means the bylaws made by the Commission pursuant to section 26(2.1) of the Act;
- (e) “Commission” means the Alberta Oat Growers Commission referred to in section 7;
- (f) “Council” means the Alberta Agricultural Products Marketing Council;
- (g) “crop year” means the period from August 1 of one year to July 31 of the following year;
- (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, food processors, feed manufacturers and livestock feeders, and
  - (ii) persons who acquire regulated product from the producer for sale on the producer’s behalf;
- (i) “eligible producer” means a producer who qualifies as an eligible producer in accordance with the bylaws;
- (j) “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 Minister;
- (k) “oat” means any seed produced by or any part of the oat plant *Avena sativa L.*;
- (l) “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);
- (m) “Plan” means the Alberta Oat Growers Commission Plan referred to in section 3;
- (n) “producer” means a person who
  - (i) grows oats for sale on one or more parcels of land in Alberta, or
  - (ii) is entitled, pursuant to a crop share arrangement, to a share of oats that are grown on the land located in Alberta;
- (o) “regulated product” means oats;
- (p) “special Commission meeting” means a special general meeting of eligible producers.

**Designation of agricultural product**

**2** Oats are 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 Oat Growers Commission Plan established under the *Alberta Oat Growers Commission Plan Regulation* (AR 133/2012) is hereby 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 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) and (f) 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 the 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 oats, including research and studies concerning the development and use of oats that improve the demand, agronomic competitiveness and profitability of oats;
- (b) to assist, educate and inform producers, dealers and processors in developing and improving methods regarding the production and processing of oats;

- (c) to initiate and carry out advertising programs, sales promotion programs and consumer education programs to expand the market awareness and demand for oats and oat products, both within Alberta and in export markets;
- (d) to assist generally in the development and promotion of the oats industry in Alberta;
- (e) to advise governments on matters concerning the oats 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 participate in programs under the *Agricultural Marketing Programs Act* (Canada);
- (h) 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 product is to be controlled or regulated.

## **Division 2 Operation of Plan by Commission**

### **Commission continued**

**7** The board known as the “Alberta Oat Growers Commission” is hereby continued.

### **Functions of Commission**

**8** The Commission is, subject to the Act, responsible for the operation, regulation, supervision and enforcement of the Plan, the regulations made by the Commission and the bylaws.

### **Operation of Plan re regulations**

**9** For the purposes of enabling the Commission to operate the 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 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 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 the Plan and the regulations made by the Commission.

#### **Financing of Plan**

**10** In accordance with the regulations,

- (a) the 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 and by Council.



**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, email address;
      - (C) a copy of the original cash ticket showing the total dollar amount, the quantity of regulated product sold and the deduction of the service charge;
      - (D) the name, mailing address, telephone number and, if available, email address of any dealer who collected the service charge on behalf of the producer;
      - (E) the legal land description of the land where the regulated product was grown;
      - (F) any specifics of the refund request;
  - (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, subject to clause (e), 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 may consider an application for a refund that is received after the applicable time period referred to

in clause (c) if the Commission is satisfied that extenuating circumstances exist;

- (f) 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 crop year

- (a) the eligible producers requesting a refund 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 crop year,

the Council may direct that the continued operation of the Plan is 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 crop year, report to the Council the refunds made under this section for that crop 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 behalfmust 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 45

days from the end of the month within which the service charge was collected;

- (d) all persons required under the 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 regulated product obtained from the producer,
    - (B) the amount of the service charge being paid on behalf of the producer, and
    - (C) the name, mailing address, telephone number and, if available, email address of the producer.

#### **Indemnification fund**

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

## **Part 2 Governance of Plan**

### **Division 1 Directors**

#### **Board of directors**

**14** The Commission shall have a board of directors consisting of a minimum of 4 directors and a maximum of 7 directors elected or appointed in accordance with the Plan and the bylaws.

#### **Election of directors**

**15(1)** The election of directors to the board is to be conducted

- (a) at the annual Commission meeting,
- (b) at a special Commission meeting, if the Council directs under section 16(5)(a) that an election be held, or
- (c) by mail ballot, if the Commission so directs,

by means of a vote of eligible producers in accordance with the procedures set out in the bylaws.

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

## **Division 2 Controverted Election, Vacancy**

### **Controverted election**

**16(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 may, not later than 15 days after the day of the election, apply in writing to the Council to have the election declared invalid 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 15 days after the day of the election.

**(4)** On receipt of an application under subsection (1), the Council shall 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) have the board appoint, from among the eligible producers who are eligible to be elected to the position, 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 on the day that the election that was declared void was held.

#### **Vacancy**

**17** If a vacancy occurs on the board, the remaining directors may, with the approval of the Council, 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.

### **Part 3 Review, Transitional and Repeal**

#### **Review**

**18** In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before July 31, 2027.

#### **Transitional**

**19** Where an individual is a director on the board 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**

**20** The *Alberta Oat Growers Commission Plan Regulation* (AR 133/2012) is repealed.





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