



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

POTATO GROWERS OF ALBERTA PLAN REGULATION

Alberta Regulation 31/2024

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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
Shop on-line at kings-printer.alberta.ca

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ALBERTA REGULATION 31/2024

Marketing of Agricultural Products Act

POTATO GROWERS OF ALBERTA PLAN REGULATION

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Definitions

1 In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (b) “area” means an area referred to in section 12;
- (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 Potato Growers of Alberta referred to in section 7;
- (f) “dealer” means any person engaged in the business of marketing potatoes purchased or received from a licensed producer;
- (g) “director” means a director of the board;
- (h) “licensed producer” means a producer who holds a producer’s licence and grows potatoes
 - (i) on one or more parcels of land that in the aggregate exceed 5 acres, or
 - (ii) by means of an undertaking that consists of a facility or operation made up of one or more greenhouses or laboratories or any combination of greenhouses and laboratories where the annual gross income, sales and transfers arising from potatoes derived from that undertaking exceeds \$10 000;
- (i) “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) 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);
- (j) “Plan” means the Potato Growers of Alberta Plan referred to in section 3;
- (k) “potatoes” means a vegetable of the species *Solanum tuberosum*, and all related tissue, grown in Alberta;
- (l) “processing”
 - (i) means changing by any means, including dehydration, the nature or form of potatoes from their raw or natural state, and
 - (ii) includes any function or activity designated as processing by the Minister;
- (m) “processor” means a person engaged in the business of processing potatoes;
- (n) “producer” means a person who grows potatoes;
- (o) “regulated product” means potatoes.

Designation of agricultural product

2 Potatoes 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 Potato Growers of Alberta Plan continued under the *Potato Growers of Alberta Plan Regulation* (AR 291/2002) 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(1) Subject to subsections (2) and (3), the Plan applies

- (a) to all of Alberta,
- (b) to all persons in Alberta who produce or market, or produce and market, potatoes, and
- (c) for the purposes of section 9(b), (c), (d), (e) and (g), to processors and dealers.

(2) The Plan does not apply to persons who grow potatoes

- (a) on one or more parcels of land that do not in the aggregate exceed 5 acres, or
- (b) by means of an undertaking that consists of a facility or operation made up of one or more greenhouses or laboratories or any combination of greenhouses and laboratories where the annual gross income, sales and transfers arising from potatoes derived from that undertaking does not exceed \$10 000.

(3) The Plan does not apply to a greenhouse, laboratory or field potato production or marketing operation that is owned or operated by the Crown in right of Alberta or Canada.

Purposes of Plan

6 The Plan has the following purposes:

- (a) to provide for the initiation, support and conduct of programs for stimulating, increasing and improving the economic well-being of the potato industry in Alberta;
- (b) to provide for the initiation, support or conduct of studies and research and development in connection with
 - (i) the sustainable production of potatoes,
 - (ii) the processing and marketing of potatoes,
 - (iii) the industrial use of potatoes and by-products of potatoes,

- (iv) consumer needs and demands with respect to potatoes, and
- (v) components of potatoes for food, pharmaceuticals, nutraceuticals and medical purposes;
- (c) to provide assistance in the education of producers with respect to the proper and profitable methods of production, marketing and processing of potatoes;
- (d) to provide for the initiation, support and conduct of promotional activities in respect of the production, marketing and processing of potatoes;
- (e) to work with any organization that has similar objectives to those of the commission;
- (f) to develop industry alliances with other marketing boards and commissions, grower associations and cooperatives and other persons to increase producer participation in the industry;
- (g) to provide market information to producers, to encourage the exchange of information among producers and to encourage communication among producers;
- (h) to encourage fair and ethical practices among producers;
- (i) to cooperate with the Government of Canada and the Government of Alberta with respect to the production, marketing and processing of potatoes.

Division 2 Operation of Plan

Commission continued

7 The commission known as the Potato Growers of Alberta is continued.

Functions of commission

8 The commission

- (a) is responsible for the operation, regulation, supervision and enforcement of the Plan, the bylaws and regulations made by the commission, and
- (b) in accordance with section 50 of the Act, with respect to the production or marketing, or both, of the regulated product, may be authorized to perform any function or

duty and exercise any power imposed or conferred on the commission by the *Agricultural Marketing Programs Act* (Canada) or under 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 producers engaged in the production or marketing, or both, of the regulated product to register their names and addresses with the commission;
- (b) 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;
- (c) requiring persons to be licensed under the Plan before they become engaged in the production, marketing and processing, or any one or more of those functions, of the regulated product;
- (d) prohibiting persons from engaging in the production, marketing or processing, as the case may be, of the regulated product except under the authority of a licence issued under the Plan;
- (e) governing the issuance, suspension or cancellation of a licence issued under the Plan;
- (f) providing for
 - (i) the assessment, charging and collection of service charges, licence fees or levies, as the case may be, 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, licence fees or levies, as the case may be;
- (g) requiring any person who receives any of the regulated product from a producer
 - (i) to deduct from the money payable to the producer any service charges, licence fees or levies, as the case may be, payable by the producer to the commission, and

- (ii) to forward the amount deducted to the commission;
- (h) providing for the use of any class of service charges, licence fees, levies 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;
- (i) providing for the payment to a Canada Board of money that is payable under a Canada Act.

Financing the Plan

10(1) The Plan is to be financed in accordance with the regulations 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.

(2) The commission, from time to time, in accordance with the regulations, may change the amount of the service charges, but the change is not effective until it has been approved by a majority of the producers present at an annual commission meeting or a special commission meeting.

Indemnification fund

11 The commission shall not establish or operate any fund under section 34 or 35 of the Act.

Part 2 Governance of Plan

Division 1 Areas and Board of Directors

Areas

12 For the purposes of the Plan and the bylaws, Alberta is divided into the following areas:

- (a) Alberta North consisting of all of the area of Alberta that is north of the 7th base line;
- (b) Alberta South consisting of all of the area of Alberta that is south of the 7th base line.

Board of directors

13 The commission shall have a board of directors consisting of 7 directors as follows:

- (a) 2 directors from Alberta North, elected or appointed in accordance with the Plan and the bylaws;
- (b) 2 directors from Alberta South, elected or appointed in accordance with the Plan and the bylaws;
- (c) 3 directors at large, elected or appointed in accordance with the Plan and the bylaws.

Division 2 Election, Eligibility and Voting

Election of area directors

14(1) Subject to the Plan and the bylaws, the licensed producers who reside within an area may elect the area directors to represent that area.

(2) The election of a director to represent an area

- (a) is to be held at an area meeting,
- (b) notwithstanding clause (a), may be held at the annual meeting if
 - (i) no nominations were received prior to or during the area meeting, or
 - (ii) the Council has determined pursuant to section 19 that an area election is void,
- (c) is to be determined by votes cast by licensed producers, or on behalf of licensed producers, who reside in the area in respect of which the vote is being held, and
- (d) is to be conducted by means of a secret ballot.

Election of directors at large

15 At each annual meeting of the commission, at least one director at large is to be elected by means of a secret ballot.

Eligibility

16 A person who is eligible to vote, or who holds a proxy, pursuant to the bylaws, may vote only once for each director position open at an election, notwithstanding that the person may

manage, operate, own, lease or hold equity in one or more operations licensed separately with the commission.

Vacancies

17(1) If a vacancy occurs on the board, the remaining directors, in accordance with the bylaws and with the approval of the Council, may appoint an individual from among the licensed producers who are eligible to be elected to the board to act as a director until the next annual meeting of producers.

(2) At the next annual meeting of producers following the appointment of an individual under subsection (1), the position must be filled by holding an election in accordance with the Plan and the bylaws for the unexpired portion of the term.

Insufficient attendance

18(1) If an election is held under the Plan and the bylaws and there is in attendance at the meeting at which the election is held an insufficient number of licensed producers who are eligible to vote at the election,

- (a) the election is void, and
- (b) the position for which the election was held is vacant.

(2) Notwithstanding that a position is vacant under subsection (1), the term of office of the position is deemed to have commenced as if an individual had been elected to the position.

(3) If a position is vacant under subsection (1), the commission, in accordance with the bylaws and with the approval of the Council, may fill the position by appointing an individual to fill that position, from among the licensed producers who are eligible to be elected to that position.

(4) An individual appointed under subsection (3) is to serve for that portion of the term that runs to the next annual meeting following the individual's appointment, at which time

- (a) the individual ceases to hold office, and
- (b) an election shall be held to fill the office for the unexpired portion, if any, of the term of the vacant position.

Election irregularities

19(1) If a licensed 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 licensed producer, not later than 30 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 30-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 30-day period after the day of the election.

(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 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 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

20 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before March 31, 2031.

Transitional

21 Where an individual is a director of the commission 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

22 The *Potato Growers of Alberta Plan Regulation* (AR 291/2002) is repealed.



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