



Province of Alberta

## MARKETING OF AGRICULTURAL PRODUCTS ACT

# ALBERTA HATCHING EGG PLAN REGULATION

### **Alberta Regulation 283/1996**

With amendments up to and including Alberta Regulation 291/2020

Current as of December 17, 2020

### Office Consolidation

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(Consolidated up to 291/2020)

**ALBERTA REGULATION 283/96**

**Marketing of Agricultural Products Act**

**ALBERTA HATCHING EGG PLAN REGULATION**

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**Definitions**

**1(1)** In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (b) “annual producer meeting” means an annual general meeting of the members of the Board and the producers;
- (b.1) “assets” means economic resources controlled by the body as a result of past transactions and from which future economic benefits may be obtained;

- (b.2) “auditor” means a professional accounting firm registered under the *Chartered Professional Accountants Act* and authorized to perform an audit engagement;
- (c) “Board” means the Board known as the Alberta Hatching Egg Producers referred to in section 6;
- (d) “breeder chicken” means a chicken, male or female of any age, raised or maintained for the purpose of producing hatching eggs;
- (e) “broiler chick” means a chick intended to be grown into a chicken for the purpose of producing meat for consumption;
- (f) “hatchery” means a person who operates a facility where hatching eggs are incubated for the production of broiler chicks;
- (g) “hatching egg” means an egg produced by a female breeder chicken for the purpose of hatching into a broiler chick;
- (g.1) “investment” means a commitment of assets in order to gain a financial return but does not include an expenditure of assets for the purposes of research and development or current operations;
- (h) “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);
  - (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);
- (i) “Plan” means the Alberta Hatching Egg Plan referred to in section 3;
- (j) “processor” means a person engaged in the business of hatching those eggs that are produced as hatching eggs;
- (k) “producer” means a person engaged in the production of hatching eggs in Alberta;

- (l) “producer’s representative” means an individual appointed to represent a producer under section 24 or 25;
  - (m) “quota” means the privilege granted by the Board to a producer to engage in the production and marketing of hatching eggs and may be expressed as the maximum number of breeder hens and pullets that a producer may have in the producer’s possession from time to time;
  - (n) “regulated product” means hatching eggs produced or marketed in Alberta;
  - (o) “special producer meeting” means a special general meeting of the members of the Board and the producers.
- (2) Except as defined in this Regulation, terms defined in the Act shall have the same meaning as in the Act.

AR 283/96 s1;28/2011;291/2020

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

- 2** Hatching eggs and breeder chickens are designated as agricultural products for the purposes of the Act.

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

### **Division 1 Plan**

#### **Plan continued**

**3(1)** The Alberta Hatching Egg Marketing Plan established under the *Alberta Hatching Egg Marketing Plan Regulation* (Alta. Reg. 251/81) is hereby revised and continued under this Regulation with the name “Alberta Hatching Egg Plan”.

**(2)** This Plan does not terminate at the conclusion of a specific period of time and shall remain in force unless otherwise terminated pursuant to the Act.

#### **Application of Plan**

- 4** This Plan applies
- (a) to all of Alberta;
  - (b) to all persons who produce or market, or both produce and market, the regulated product;

- (c) to hatcheries for the purposes of section 8(1)(b), (c), (d), (e), (f), (g), (h) and (2)(f), (h), (i), (j), (k), (l), (m), (p), (q) and (r).

AR 283/96 s4;59/2010

### **Purposes of Plan**

#### **5** The purposes of this Plan are

- (a) to provide for the effective promotion, control and regulation in all respects of the production or marketing, or both, of the regulated product, including the prohibition of production and marketing in whole or in part of the regulated product, and
- (b) without limiting the generality of clause (a), to accomplish the following:
  - (i) to maintain a fair and stabilized price for the regulated product;
  - (ii) to develop and maintain a system of orderly marketing of the regulated product, including participation in and compliance with any system established under a Canada Act;
  - (iii) to ensure the availability of an adequate supply of the regulated product to meet market demand;
  - (iv) to ensure that a high quality regulated product is available to the market;
  - (v) to establish a system of quotas for the production and marketing of the regulated product;
  - (vi) repealed AR 59/2010 s3;
  - (vii) to establish standards for the production and marketing of the regulated product;
  - (viii) to work and co-operate with other marketing boards and other organizations, whether in or outside Alberta, having objectives similar to or compatible with the objectives of the Board, including the joining of those organizations and the contribution of funds to them;
  - (ix) to initiate or support projects or programs that are intended to stimulate, increase or improve the production or marketing, or both, of the regulated product;

- (x) to provide for the prohibition of production or marketing of the regulated product where the regulated product is not produced or marketed under a quota;
- (xi) to fund, initiate, conduct or carry on research and development and studies with respect to the production, handling, marketing and processing of the regulated product, including research and studies concerning the development and use of the regulated product.

AR 283/96 s5;59/2010;28/2011

## **Division 2 Administration of Plan by the Board**

### **Board continued**

**6** The Alberta Hatching Egg Marketing Board is hereby continued with the name “Alberta Hatching Egg Producers”.

### **Functions of the Board**

#### **7(1) The Board**

- (a) is, subject to the Act, responsible for the operation, regulation, supervision and enforcement of this Plan;
- (b) may appoint a General Manager and other officers and agents, prescribe their duties and fix and provide for their remuneration;
- (c) shall open one or more bank accounts and designate any officers, employees and other persons necessary to
  - (i) sign cheques and other negotiable instruments;
  - (ii) transact the Board’s business with its bank, trust corporation, credit union, treasury branch or other depository;
  - (iii) generally do all things incidental to or in connection with the transaction of the Board’s business with its bank, trust corporation, credit union, treasury branch or other depository;
- (c.1) when investing its assets must make prudent investments in accordance with the requirements of section 3 of the *Trustee Act* respecting the investment of assets and may delegate to an agent in accordance with section 5(1) to (3) of that Act;

- (c.2) must establish policies respecting the management of its assets as required by the *Operation of Boards and Commissions Regulation* (AR 26/99);
- (d) shall maintain such books and records, including financial records,
  - (i) as may from time to time be required under the Act, the regulations or by virtue of any order of the Council, and
  - (ii) as may be determined by the Board;
- (e) shall maintain an office and notify the Council and each producer and hatchery who holds a licence under the regulations of the location of the office;
- (f) subject to the Act, may issue directions governing the Board's internal operations;
- (g) shall ensure compliance with all agreements into which the Board enters or has entered under a Canada Act;
- (h) may retain earnings and revenues from year to year to finance the purposes of the Plan.

**(2)** Subject only to Council's authority under the Act to have access to accounting books and records, the Board may refuse to allow access or limit the extent of access to accounting books and records if the Board is of the opinion that access will reveal confidential information about a producer or other person, other than the producer requesting the information.

AR 283/96 s7;205/2002;28/2011

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

**8(1)** For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 26 of the Act, to make regulations

- (a) requiring producers engaged in the production or marketing, or both, of the regulated product to register their names and addresses with the Board;
- (b) requiring any person who produces, markets or processes the regulated product to furnish to the Board any information or record relating to the production, marketing or processing of the regulated product that the Board 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;
  - (e) governing the issuance, suspension or cancellation of a licence;
  - (f) providing for
    - (i) the assessment, charging and collection of service charges and licence fees, 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 and licence fees, as the case may be;
  - (g) requiring any person who receives 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 Board, and
    - (ii) to forward the amount deducted to the Board;
  - (h) providing for the use of any class of service charges, licence fees, levies or other money payable to or received by the Board for the purpose of paying its expenses and administering the Plan and the regulations made by the Board;
  - (i) providing for the payment to a Canada Board of money that is payable under a Canada Act.
- (2)** For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 27(1) of the Act, to make regulations
- (a) requiring that the production or marketing, or both, of the regulated product be conducted pursuant to a quota;
  - (b) governing
    - (i) the fixing and allotting of quotas,
    - (ii) the increase or reduction of quotas,

- (iii) the cancelling of quotas, and
- (iv) the refusal to fix and allot quotas,  
to producers for the production or marketing, or both, of  
the regulated product on any basis the Board considers  
appropriate;
- (c) governing the transferability or non-transferability of  
quotas and prescribing the conditions and procedures  
applicable to the transfer of quotas, if any, that the Board  
considers appropriate;
- (d) establishing
  - (i) a formula for determining the amount or number of  
regulated product deemed to have been produced or  
marketed by a producer, and
  - (ii) the period of time in respect of which the formula is  
to be applied,  
  
for the purpose of determining the amount of regulated  
product produced or marketed by a producer during a  
period of time;
- (e) providing for
  - (i) the assessment, charging and collection of a levy  
from any producer whose production or marketing,  
or both, of the regulated product is in excess of the  
quota that has been fixed and allotted to that  
producer, and
  - (ii) the taking of legal action to enforce payment of the  
levy;
- (f) requiring any person who provides any agricultural  
product to a producer under the Plan to furnish to the  
Board any information requested by the Board;
- (g) determining the quantity of each class, variety, size, grade  
and kind of regulated product that shall be produced or  
marketed, or both, by each producer;
- (h) directing, controlling or prohibiting, as the case may be,  
the production or marketing, or both, of the regulated  
product or any class, variety, size, grade or kind of  
regulated product in such a manner that the Board  
considers appropriate;

- (i) regulating and controlling the production or marketing, or both, of the regulated product, including the times and places at which the regulated product may be produced or marketed;
- (j) providing for the purchase or acquisition of any of the regulated product that the Board considers advisable and the sale or disposition of it;
- (k) providing for the establishment and operation of one or more programs for the disposition of any agricultural product considered to be surplus to market requirements;
- (l) providing for the payment to a producer of the money payable or owing for the regulated product, less any service charges and levies owing to the Board by the producer, and fixing the time or times at which or within which the payments shall be made;
- (m) governing
  - (i) the furnishing of security or proof of financial responsibility by any person engaged in the production, marketing or processing of the regulated product, and
  - (ii) the administration and disposition of any money or securities so furnished;
- (n) prohibiting a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of the regulated product from producing or marketing, as the case may be, any regulated product;
- (o) prohibiting a producer to whom a quota has been fixed and allotted for the production or marketing, or both, of the regulated product from producing or marketing, as the case may be, any regulated product in excess of that quota;
- (p) prohibiting any person from purchasing or otherwise acquiring from a producer any regulated product that is in excess of the quota that has been fixed and allotted to the producer for the production or marketing, or both, of the regulated product;
- (q) prohibiting any person from purchasing or otherwise acquiring any regulated product from a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of the regulated product;

- (r) determining from time to time the minimum price or prices that shall be paid to producers for the regulated product or any class, variety, grade, size or kind of regulated product and determining different prices for different parts of Alberta.
- (3) For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 27(2) of the Act, to make regulations
- (a) governing breeder chickens in the same manner as if breeder chickens were a regulated product under the Plan;
  - (b) governing with respect to breeder chickens the producers of the regulated product under the Plan in the same manner as if breeder chickens were a regulated product under the Plan;
  - (c) establishing and governing a formula for determining the amount or number of the regulated product produced or deemed to have been produced from breeder chickens.
- (4) Repealed AR 59/2010 s4.
- (5) A regulation referred to in this section that is made by the Board shall not be filed in accordance with the *Regulations Act* unless the regulation is first submitted to and approved by the Council.

AR 283/96 s8;59/2010

**Financing of the Plan**

**9** In accordance with the regulations, this Plan shall be financed by the charging and collection of service charges, licence fees and levies.

**Remuneration**

**10** The remuneration to be paid to the chair of the Board and to other members of the Board shall be fixed by a vote of the producers at an annual producer meeting or special producer meeting.

**Appointment of an auditor**

- 11(1)** The producers shall from time to time appoint an auditor for the Board.
- (2) The appointment of an auditor shall be made at an annual producer meeting or special producer meeting.

**Authority from Governor in Council**

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

**Indemnification funds**

**13(1)** The Board may establish one or more funds under section 34 or 35 of the Act.

**(2)** In order to finance the funds, the Board may raise amounts in accordance with sections 34 and 35 of the Act.

## **Part 2 Governance of Plan**

### **Division 1 Board**

**Members of the Board**

**14** The Board shall consist of 5 members.

**Chair, etc.**

**15(1)** At the first meeting of the Board after the annual producer meeting, the members of the Board shall elect from among themselves

- (a) a chair of the Board, and
- (b) a vice-chair of the Board.

**(2)** The term of the chair and vice-chair commences at the conclusion of the meeting at which they were elected under subsection (1) and concludes at the conclusion of the first meeting of the Board held after the next annual meeting.

**(3)** Notwithstanding subsection (2), if at any time during the term of office of the chair or vice-chair a majority of the members of the Board vote to remove from office the person holding that office, that office becomes vacant at the conclusion of that vote.

**Meetings of the Board**

**16(1)** The Board shall meet at the call of the chair or 3 other members of the Board.

(2) The quorum for a meeting of the Board is 3 members of the Board.

(3) Notice of a meeting of the Board shall be given in writing and may be delivered personally, by ordinary mail or transmitted by facsimile or such other means of electronic communication that the Board may approve of by resolution.

#### **Term of office**

**17(1)** Each member of the Board shall be elected for a term of 3 years.

(2) Subject to subsection (3), an individual shall not serve as a member of the Board for more than 9 consecutive years.

(3) If an individual serves for 9 consecutive years as a member of the Board, that individual is not eligible to serve again as a member of the Board until one year has expired following the expiry of that individual's last term.

(4), (5) Repealed AR 13/2011 s2.

AR 283/96 s17;205/2002;13/2011

#### **Removal from office**

**17.1** The Board may, on a motion passed by at least 60% of the directors currently in office at a meeting of the Board, remove a director from office if the director fails to abide by any of the Board's policies.

AR 291/2020 s3

#### **Vacancy**

**18(1)** If a vacancy occurs on the Board, the Board may, with the approval of the Council, appoint from among the individuals who are eligible to be elected to the Board an individual to act as a member until the date of the next annual producer meeting.

(2) At the next annual producer meeting following the appointment of an individual under subsection (1), the position shall be filled by an election held in accordance with this Plan for the unexpired portion of the term.

## **Division 2 General Meetings of Producers**

#### **Annual producer meetings**

**19(1)** The Board shall hold an annual producer meeting at least once in each calendar year.

(2) Not more than 15 months may elapse between annual producer meetings.

#### **Special producer meetings**

**20(1)** A special producer meeting

- (a) may be called by the Board, and
- (b) shall be called by the Board on the written request of the Council or not less than 33% of the producers.

(2) The Board shall hold a meeting under subsection (1)(b) within 30 days from the day that the Board received the request to hold a meeting.

AR 283/96 s20;205/2002

#### **Time and place of general meeting**

**21** Subject to sections 19 and 20, the time and place of an annual producer meeting or a special producer meeting called by the Board shall be fixed by the Board.

#### **Notification of general meeting**

**22(1)** Where an annual producer meeting or a special producer meeting is to be held, the Board shall in writing notify each producer who is entitled to vote under the Plan of the meeting by forwarding the notice by ordinary mail or by facsimile or any other means of electronic communication approved by the Board by resolution to the producer at the latest address for the producer that is on the records of the Board.

(2) A notice given under this section

- (a) must be mailed to the producer or otherwise forwarded under subsection (1) at least 14 days before the day on which the meeting is to take place, and
- (b) must set out
  - (i) the time, place, date and purpose of the meeting, and
  - (ii) any other information as determined by the Board.

AR 283/96 s22;205/2002

#### **Quorum**

**23** The quorum for an annual producer meeting or special producer meeting is 33% of the producers.

AR 283/96 s23;205/2002

### **Division 3 Eligibility, Voting and Elections**

#### **Producers who are individuals**

**24(1)** Where a producer is an individual, that individual shall only vote in an election or on any matter under this Plan if

- (a) the individual's name appears on the current voters list, or
- (b) the individual makes a statutory declaration stating that the individual
  - (i) is a producer, and
  - (ii) has not previously voted in the election or on the matter in respect of which the individual wishes to cast a vote.

**(2)** An individual producer may appoint an individual who

- (a) is a member of the individual producer's family or a full time employee of the individual, and
- (b) is not a producer himself or a representative of another producer

as a representative to vote in an election or any other matter on which that producer may vote under this Plan.

**(3)** The appointment of a producer's representative must be in writing, be signed by the producer and witnessed and set out

- (a) the name of the producer;
- (b) the name of the individual appointed as the producer's representative;
- (c) the election or other matter in respect of which the producer's representative may vote;
- (d) the date on which the appointment terminates.

**(4)** The appointment of a producer's representative is not valid unless

- (a) the appointment complies with this section, and
- (b) the document setting out the appointment is provided to the chief returning officer before an election is held, in the case of an election, or to the chair of the Board, in the case of any other vote.

**Producers who are not individuals**

**25(1)** A producer that is not an individual must appoint an individual to be the representative of the producer and the appointed individual may do the following on behalf of that producer:

- (a) make representations on any matter pertaining to this Plan or the operation of the Board;
- (b) attend meetings held under this Plan;
- (c) vote on any matter under this Plan;
- (d) vote at an election under this Plan;
- (e) hold office under this Plan.

**(2)** For the purpose of subsection (1), if a producer is

- (a) a corporation, it must appoint an individual who is a director, shareholder, member, officer or full time employee of the corporation as its representative,
- (b) a partnership, it must appoint an individual who is a partner or full time employee of the partnership as its representative, or
- (c) an organization that is described in section 1(1)(h)(ii) or (iii), it must appoint a member as its representative.

**(3)** An appointment of a representative under this section must

- (a) be in writing and set forth at least the name of the representative of the producer, and
- (b) be filed with the Board.

**(4)** A representative of a producer shall not cast a vote under this Plan unless

- (a) the producer's name appears on the current voters list, and
- (b) that representative, before the vote is cast, provides in accordance with subsection (6) a copy of the document filed under subsection (3).

**(5)** Notwithstanding subsection (3) or (4)(b), an individual who is the representative of the producer may cast a vote under this Plan if the individual, before the vote is cast, makes a statutory declaration in writing stating that the individual

- (a) is the representative of the producer, and

- (b) has not previously voted in the election or on the matter in respect of which the vote is to be taken.
- (6) The statutory declaration referred to in subsection (5) must,
  - (a) in the case of an election, be provided to or made before the returning officer or deputy returning officer, or
  - (b) in the case of a vote other than an election, be provided to or made before a director or officer of the Board.
- (7) An individual must not be a representative under this section for more than one producer at any one time.
- (8) A representative is not eligible to hold office under this Plan on behalf of the producer until the representative's appointment is filed in accordance with subsection (3).
- (9) A representative who as an individual is also a producer shall only vote in his capacity as a representative and shall not vote in his capacity as an individual.

**Eligibility re Board member**

- 26(1)** An individual is not eligible to be elected to the Board unless the individual
- (a) is ordinarily resident in Alberta,
  - (b) is a producer or a representative of a producer under section 25 that holds a valid licence under this Plan,
  - (c) has been allocated a quota by the Board or is the representative of a producer who has been allocated quota, and
  - (d) has been nominated in accordance with this Plan.
- (2) Notwithstanding subsection (1), an individual is not eligible to be elected to the Board if that individual
- (a) is a processor, designated representative of a processor or a member of its board of directors or is otherwise involved in the management or direction of a processor, or
  - (b) is a director of the Alberta Chicken Producers.
- (3) When at any time a member of the Board ceases to be eligible for election to the Board under subsection (1) or (2) that member, effective at that time, ceases to be qualified to remain as a member of the Board and that person's position on the Board is vacant.

**Voting**

**27** A producer or producer's representative who is eligible to vote may

- (a) vote once on each matter, and
- (b) in the case of an election of a member of the Board, vote for any number of candidates not exceeding the number of members to be elected to the Board at that meeting,

notwithstanding that the producer may manage or operate or own, lease or hold equity in 2 or more operations that are registered separately with the Board.

**Voting taking place at meetings**

**28** Subject to section 29, a producer or a producer's representative is entitled to vote

- (a) in an election of a person to be a member of the Board, or
- (b) on any question put to a vote,

if the producer or producer's representative is present at the meeting at which the election or vote is being held.

**Mail-in vote**

**29(1)** The Board, or the majority of the producers present at an annual producer meeting or special producer meeting, may direct that a mail-in vote be held in respect of any matter referred to in section 28(a) or (b).

**(2)** Where a mail-in vote has been directed under subsection (1), the returning officer shall, not later than 30 days before the day on which the vote is to take place, mail the following to each producer at the producer's current address shown on the records of the Board:

- (a) a copy of the ballot setting out the matter to be voted on;
- (b) an envelope marked "Ballot";
- (c) a return envelope addressed to the returning officer.

**(3)** Where, in respect of a mail-in vote, a producer or producer's representative wishes to cast a vote, that person must

- (a) mark the ballot with an "X",
- (b) enclose the ballot in the envelope marked "Ballot",

- (c) enclose the “BALLOT” envelope in the return envelope, initial the return envelope and endorse it with the producer’s licence number, and
  - (d) send it to the returning officer.
- (4) In order to be counted, a ballot must be received in the Board’s office no later than 4:30 p.m. on the day specified by the Board.
- (5) A ballot is spoiled if it has been
- (a) altered, added to, falsified or incorrectly filled in, or
  - (b) filled in in any way by any person other than the producer to whom it was sent or that producer’s representative appointed under section 25.
- (6) With respect to a mail-in vote, the returning officer shall
- (a) keep a record of all producers who have submitted a ballot,
  - (b) open the ballots in the presence of at least 2 producers or producer’s representatives at noon on the first business day following the final date for receiving completed ballots,
  - (c) scrutinize and reject any ballot that the returning officer determines to be spoiled, and
  - (d) count the valid ballots in the presence of those producers or producer’s representatives and keep a record of the count.
- (7) After the votes are counted, the returning officer shall
- (a) immediately notify the members of the Board of the results of the vote, and
  - (b) notify the producers of the results by publication in the Board’s regular circular.

AR 283/96 s29;291/2020

**Voters list**

**30(1)** When an election to the Board is to be conducted, the returning officer shall, not less than 30 days before the day on which the election is to be conducted, prepare a list of the producers eligible to vote in the election.

**(1.1)** The returning officer may amend the voters list up to and including the day on which the vote is to take place, but no later than the time at which the ballots are to be counted, to

- (a) add to the voters list a producer who has been issued a licence and allocated quota after the voters list has been prepared under subsection (1) but before the ballots are to be counted, or
- (b) remove from the voters list a producer who has surrendered the producer's licence or whose licence has been suspended or cancelled after the voters list has been prepared under subsection (1).

**(2)** The voters list shall be available to any producer or producer's representative for inspection before, during and after an election.

291/2020 s5

### **Nominations**

**31** Nominations for candidates for election as members of the Board must be

- (a) signed by at least 2 producers or producer's representatives and by the nominee, and
- (b) delivered to the returning officer by the date set by the Board.

AR 283/1996 s31;291/2020

### **Elections**

**32** Except where otherwise provided for under this Plan, elections to the Board shall be conducted at the annual producer meeting.

### **Election results**

**32.1(1)** In the case of an election under this Plan,

- (a) the candidate receiving the largest number of votes in the election is the person who is elected to the position for which the election is held;
- (b) if only one person is nominated for the position that is to be filled, that person is deemed to have been elected to the position;
- (c) if there are more than 2 nominations for the position and a tie vote occurs between 2 or more of the candidates that received the largest number of votes, the candidates with the smaller number of votes shall be eliminated and a 2nd

election for the position shall be immediately held among the tied candidates;

- (d) if there are only 2 nominations for the position and a tie vote occurs, the returning officer shall immediately select, by draw, the candidate for the position and that person is deemed to have been elected to the position.

(2) If there are more than 2 nominations and a tie vote occurs after a mail-in vote held under section 29, the Board shall direct the returning officer under subsection (1)(c) to either hold a mail-in vote for the tied candidates or hold an election for the tied candidates at the next annual meeting.

AR 205/2002 s7

#### **Returning officer**

**33(1)** Subject to subsection (2), the General Manager of the Board shall be the returning officer for the purposes of an election or vote taken under this Plan.

(2) The Board may appoint a person other than the General Manager to act as returning officer for the purposes of an election or vote taken under this Plan.

(3) The returning officer may appoint persons as deputy returning officers to assist in the conduct of elections and votes under this Plan.

AR 283/96 s33;205/2002

#### **Duties of returning officer**

**34(1)** The returning officer must

- (a) ensure that a person does not cast a vote except in accordance with this Plan, and
- (b) permit scrutiny of the actions of the returning officer and the deputy returning officers by a scrutineer in respect of the conduct of a vote taken under this Plan.

(2) Unless otherwise directed by Council, neither the returning officer nor any other person shall destroy any records or ballots in respect of a vote or election held under this Plan until 90 days have elapsed from the day the vote was taken.

#### **Licences required**

**35** Only a producer who holds a licence under this Plan

- (a) may vote in an election or on any other matter under this Plan, and
- (b) is entitled to notice of an annual producer meeting or special producer meeting.

**Invalid election re attendance at meeting**

**36(1)** If an election is held under this Plan and there is in attendance at the meeting at which the election is held an insufficient number of persons 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 pursuant to subsection (1), the term of office of the position is deemed to have commenced as if a person had been elected to the position.

**(3)** Where a position is vacant pursuant to this section, the Board may, with the approval of the Council, appoint an individual who is eligible to be elected to the Board as a member of the Board until the next annual producer meeting, at which time an election shall be held for a member to serve the balance of the term in accordance with this Plan.

**Controverted election**

**37(1)** If a producer

- (a) questions
  - (i) the eligibility of a candidate,
  - (ii) the eligibility of a voter,
  - (iii) any matter relating to a ballot or the tabulation of ballots, or
  - (iv) any other irregularity with respect to the conduct of an election,

and

- (b) seeks to have the election declared invalid and the position declared vacant,

the producer shall, not later than 30 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, within 30 days after the day of an election, the Council has not received an application under subsection (1), a person 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 30 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 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 this Plan 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) Notwithstanding that an election is declared void and a position is declared vacant under subsection (4)(c), the term of office of the position declared vacant is deemed to have commenced on the day that the election that was declared void was held.
- (6) If the Council declares an election to be void and the position vacant, the Council may either
- (a) order that within the time that Council considers proper a special producer meeting be held and an election conducted to fill the vacant position, or
  - (b) have the Board appoint, from among persons who are eligible to be elected to the position, a person to fill the vacant position.
- (7) A person elected under subsection (6)(a) shall hold office for the unexpired portion of the term.

(8) A person appointed under subsection (6)(b) shall hold office until the next annual producer meeting following the appointment, at which time the person ceases to hold office and an election shall be held to fill the office for the unexpired portion of the term.

### **Part 3 Transitional and Repeal**

#### **Transitional**

**38(1)** In this section,

- (a) “new Plan” means the Plan as continued by this Regulation;
- (b) “previous Plan” means the *Alberta Hatching Egg Marketing Plan Regulation* (Alta. Reg. 251/81) as it read immediately before the coming into force of this Regulation.

(2) The persons who, immediately before the coming into force of this Regulation, were members of the Board under the previous Plan shall, on the coming into force of the new Plan, continue as members of the Board under the new Plan until members of the Board are elected under the new Plan.

#### **Review**

**39** In compliance with the on-going regulatory review initiative, this Regulation must be reviewed on or before September 30, 2025.

AR 283/96 s39;205/2002;16/2008;131/2009;61/2014;291/2020

#### **Repeal**

**40** Alberta Regulation 251/81 is repealed.





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