

**Alberta Peace Region Forage Seed Growers
Consultation on Proposed Regulatory Amendments**

Introduction: Every five years it is mandatory to review the regulations that enable levy collection to be sure that the regulations are still accurate and relevant. The Alberta Peace Region Forage Seed Growers Commission (ABPRFSGC) is the levy commission in Alberta for forage seed. They have three regulations that govern how they do business, who is legally required to remit levy (referred to as service charges here), who has authority to collect levy, definitions of what constitutes as forage seed (referred to as the regulated product), etc. The commission is comprised of the three Alberta Directors who sit on the Peace Region Forage Seed Association’s Board. These directors have reviewed the regulations and have proposed the following amendments. They would like to engage with growers and receive feedback on the proposed changes.

Timeline: Growers can submit feedback and/or vote on the proposed amendments prior to or at the joint PRFSA and ABPRFSGC AGM on March 10th, 2021. If you are unable to attend the AGM then please submit your comments and vote to General Manager, Talon Gauthier, by March 5th, 2020 via email at coordinator@peaceforageseed.ca.

1. Proposed amendments to the Alberta Peace Region Forage Seed Growers Regulation

The Alberta Peace Region Forage Seed Growers Regulation (AR 117/2004), under the *Marketing of Agricultural Products Act* (MAPA), sets out the day-to-day operations of the Alberta Peace Region Forage Seed Growers Commission (Commission). The Regulation describes how the Commission will administer the Alberta Peace Region Forage Seed Growers Plan and how delegated powers will be used. The Regulation also describes services charges, the service charge refund process, and dealer licensing and reporting requirements.

Commission directors have completed a review of the Commission’s regulations and are proposing minor amendments to the Alberta Peace Region Forage Seed Growers Regulation to:

- Extend the expiry date by five years.
- change the title of the regulation to include the word “Commission”.
- enable collection of additional contact information about producers, including phone number(s) and email addresses.

Section 26 of MAPA provides authority for the Commission to make this regulation upon the approval of Marketing Council.

Proposed	Current	Rationale
Amend title of the regulation to: Alberta Peace Region Forage Seed Growers Commission Regulation.	Alberta Peace Region Forage Seed Growers Regulation	Aligns the Alberta Peace Region Forage Seed Growers Regulation with other agricultural Commission regulations.
Amend section 4(4) to be clear that the Commission has authority to collect additional contact information from	Duties of dealers re service charge 4(4) Any person who is required to collect and pay to the Commission the service	Provides authority for the Commission to collect additional personal information from any person who pays a service

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Proposed	Current	Rationale
<p>dealers about producers, including phone number(s) and email addresses.</p> <p>Change the title of this section to clarify that these are duties of dealers and producers – anyone who must pay a service charge to the Commission must follow these requirements.</p>	<p>charge payable by a producer must, when that person pays the service charge to the Commission, provide to the Commission, in respect of that producer, a summary detailing the following information:</p> <ul style="list-style-type: none"> (a) the name and address of the producer; (b) the type and crop class of the regulated product, if available; (c) the dollar value and quantity of the regulated products obtained from the producer; (d) the amount of the service charge being paid on behalf of the producer. 	<p>charge about the producers, including phone numbers and email addresses. This aligns with authority of other agricultural marketing boards and commissions.</p>
<p>Amend section 5(2)(b)(ii) to add “email address, if available”.</p>	<p>Refund of service charge</p> <p>5(1) Any service charge that is paid by or on behalf of a producer is refundable to the producer on require of the producer.</p> <p>(2) A request for a refund of the service charge must</p> <ul style="list-style-type: none"> (a) be made in writing on a form established by the Commission, and (b) contain the following information: <ul style="list-style-type: none"> (i) the producer’s name; (ii) the producer’s mailing address and telephone number; 	<p>Provides additional contact methods that may be more efficient than ordinary mail.</p>
<p>Replace May 31, 2021, with May 31, 2026.</p>	<p>Expiry</p> <p>10 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, 2021.</p>	<p>Ensures the regulation does not expire prior to its expiry date, and assure the regulation is reviewed as per Marketing Council’s operational practice of a five-year mandatory review of MAPA Marketing and Commission Regulations.</p>

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2. Proposed amendments to the Alberta Peace Region Forage Seed Growers Plan Regulation

The Alberta Peace Region Forage Seed Growers Plan Regulation (AR 91/2004), under the *Marketing of Agricultural Products Act* (MAPA), establishes the Commission, 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 to whom the Plan applies (producers, dealers, and persons who market or process the regulated product in the Alberta).

Section 23 of MAPA provides authority to make changes to this regulation. It is made by the Minister of Agriculture and Forestry at the request of Marketing Council.

Proposed changes to the Plan Regulation include:

- Modify definitions to clarify that legumes mean “forage” legumes; change auditor definition to update name of legislation; and other administrative changes.
- Provide authority for the Commission to conduct elections in conjunction with the annual Commission meeting, by electronic voting (internet and/or telephone), as may be necessary.
- Remove the necessity for there to be a mandatory plebiscite if 35% of eligible producers request 35% of refunds; instead, make it clear that this is at the discretion of Marketing Council.
- Establish new timeframe for reviewing the regulation (mandatory regulation review every five years).

Proposed	Current	Rationale
Amend 1(c) to strikeout “the directors and the”	Definitions 1 (c) “annual Commission meeting” means an annual general meeting of the directors and the eligible producers;	Aligns with other marketing board and commission regulations such as the Alfalfa Seed Commission Plan Regulation.
Substitute 1 (c.2) with the following: “auditor” means a professional accounting firm registered under the <i>Chartered Professional Accountants Act</i> and authorized to perform an audit engagement;	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;	Necessary to update definition to reflect current legislation.
Substitute 1(k) with the following: 1(k) “forage and turf seed” means perennial grasses, annual ryegrasses and forage legumes grown to produce seed	Definitions 1(k) “forage and turf seed” means perennial grasses, annual ryegrasses and legumes grown to produce seed and includes both pedigreed and common seed;	Necessary to clarify that the legumes are forage legumes, not legumes as regulated by the Alberta Pulse Growers Commission.

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Proposed	Current	Rationale
and includes both pedigreed and common seed;		
Correct error of the word highlighted: Replace “produce” with product.	Application of Plan 5(2) Notwithstanding subsection (1), this Plan does not apply to producers who do not produce the regulated produce within the Alberta Peace Region.	Corrects error and clarifies that it is the production of the regulated product, not regulated produce.
Replace 10(1)(c) with the following: (c) 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 the eligible producers at an annual Commission meeting or a special Commission meeting and by Council.	Financing of Plan 10(1)(c) 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 the eligible producers at an annual Commission meeting or a special Commission meeting	Clarifies that changes to the amount of service charge that can be collected by the Commission requires approval by eligible producers and by Marketing Council prior to becoming effective.
Repeal 10(2) .	Financing of Plan 10(2) The amount of service charge to be established initially after the coming into force of this Plan is to be established by the Commission but must be approved by the Council before it becomes effective.	This subsection is unnecessary. With the clarification provided as per the above row, this provision becomes redundant. This provision is also inconsistent with other marketing board and commission Plan Regulations. Making this change, and the change outlined in the row above, will bring this regulation into alignment with other MAPA Plan Regulations.
Replace 11(2) with the following: 11(2) In the event that within the period of time that makes up a fiscal 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 under clause	Service charges refundable 11(2) In the event that within the period of time that makes up a fiscal 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 under clause	Reduces the burden associated with a mandatory plebiscite. This also provides Marketing Council with flexibility to determine the best approach to assess reasons contributing to more producers requesting refunds. The Commission will develop a process that will ensure a vote of eligible producers occurs to determine if they

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<p>(a) account for at least 35% of the service charges collected during the current crop year,</p> <p>the continued operation of this Plan may be subject to the approval by a majority of producers at a plebiscite to be held under the direction of the Council pursuant to the Act.</p>	<p>(a) account for at least 35% of the service charges collected during the current crop year,</p> <p>the continued operation of this Plan is to be subject to the approval by a majority of producers at a plebiscite to be held under the direction of the Council pursuant to the Act.</p>	<p>would like to move forward with a plebiscite and request that Council conduct the plebiscite. This vote would happen at the annual Commission meeting.</p> <p>This change aligns with Council’s policy approach on plebiscites.</p>
<p>Replace 24 with following:</p> <p>24 The Commission shall have a Board of Directors consisting of 3 eligible producers.</p>	<p>Board of Directors</p> <p>24 The Commission shall have a Board of Directors consisting of 3 eligible producer directors.</p>	<p>Makes this provision easier to understand.</p>
<p>Amend 29(1) to clarify that the director election held at (or in conjunction with) the annual Commission meeting, can be conducted in person during the meeting or via electronic means (internet or telephone voting) in conjunction with the annual Commission meeting.</p>	<p>Election of directors</p> <p>29(1) The elections for directors are to be conducted, subject to section 36(5), at the annual Commission meeting.</p>	<p>In 2020, Marketing Council shared its policy position with all agricultural marketing boards and commissions that it will permit elections and other votes held pursuant to a marketing board or commissions’ regulation to be done electronically, if so desired, as long as the regulations permitted the organization with authority to hold votes/elections electronically.</p> <p>This proposed amendment aligns with Marketing Council’s policy position and will provide the Commission with flexibility to govern its voting processes, particularly when it is not possible for a meeting to be held “in person” such that the traditional methods for voting by paper ballot could occur.</p>

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		<p>As experienced in 2020, the COVID-19 pandemic created a unique opportunity for all marketing boards and commissions to host regional/area/local and annual general meetings virtually and for many, to utilize either mail ballot voting or electronic voting for elections and resolutions/motions.</p> <p>This proposed amendment also aims to clarify the authority for the Commission for electronic voting.</p>
<p>Amend 30(1) to clarify that if the election is conducted by electronic means such as telephone or internet voting that the requirements for voting will be set by the Commission by Board order.</p>	<p>Election of director by mail ballot 30(1) Notwithstanding section 29(1), the Commission may direct that the election of a director be carried out by means of a mail ballot.</p>	<p>Clarifies that any election held during the annual Commission meeting, would follow voting requirements as set out by the Board via Board order.</p>
<p>Repeal 31(1). Move 31(2) & (3) to section 27 (Term of Office).</p>	<p>Eligibility re: director 31(1) To be eligible to be a director a person must be an eligible producer.</p> <p>(2) An eligible producer is not eligible to serve as a director for more than 3 consecutive terms of office.</p> <p>(3) Notwithstanding subsection (2), an eligible producer who was a director is once again eligible to serve as a director if one year has elapsed since that eligible producer's last term as a director has concluded.</p>	<p>31(1) is not necessary as this is a duplication of MAPA section 17(3) which states "Every member of a board or commission must be a producer".</p> <p>31(2) & (3) are proposed to move to the terms of office section to enhance flow and comprehension of this regulation.</p>
<p>Clarify that section 33(1)(b) allows for the voting to occur at or in conjunction with the annual Commission meeting by electronic or telephone ballot.</p>	<p>Eligibility to vote 33(1) An eligible producer is eligible (a) to vote on any question put to a vote at an annual Commission</p>	<p>Clarifies that voting in elections can be done at or in conjunction with the annual Commission meeting, by electronic means (internet or telephone).</p>

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	meeting or a special Commission meeting if the eligible producer is present at the meeting at which the vote is held; (b) to vote in any election for a director that is conducted at an annual Commission meeting if the eligible producer is present at the meeting at which the election is conducted; (c) to vote in any election for a director that is conducted by means of a mail ballot.	
Strikeout May 31, 2021 and replace with May 31, 2026	38 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before May 31, 2021.	Aligns with Marketing Council's operational practice for marketing board and commission regulations to be reviewed every five years.

The full regulations can be found at:

Authorization Regulation (AR 112/2004): https://www.qp.alberta.ca/documents/Regs/2004_112.pdf

Plan Regulation (AR 91/2004): https://www.qp.alberta.ca/documents/Regs/2004_091.pdf

Regulation (AR 117/2004): https://www.qp.alberta.ca/documents/Regs/2004_117.pdf

Process Considerations:

- Upon majority support of these proposed amendments by eligible producers at the joint AGM on March 10th, 2021, the Commission will send a request to Marketing Council to commence drafting the proposed changes.
- The Commission regulation will be made by the directors and approved by Marketing Council.
- The Plan Regulation will require approval by the Minister of Agriculture and Forestry.

Proposed Consultation Questions:

- Do you support the proposed amendments?
- Are there any other changes necessary to the regulations?

Comments/Questions/Vote

Contact: Talon Gauthier, General Manager, 1 877 630 2198, coordinator@peaceforageseed.ca