
THE FARM PRODUCTS MARKETING ACT
(C.C.S.M. c. F47)

Broiler Breeder Laying Hen Quota Order*

Regulation 43/2008
Registered March 3, 2008

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* This order is made under the *Manitoba Chicken Broiler Producers Marketing Plan Regulation*, Manitoba Regulation 246/2004, and is Order No. 1(HE), 2007 of Manitoba Chicken Producers.

NOTE: This order replaces Manitoba Regulation 295/89, which was repealed by Manitoba Regulation 52/2008.

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PART I
DEFINITIONS AND INTERPRETATION

Definitions

- 1** In this Order,

"broiler breeder laying hen quota" allotted to a registered producer for a facility means the maximum number of laying hens determined by the Board which may be raised or kept by such producer in that facility during the production period for such facility;

"down time" with respect to a facility of a registered producer means the period of time specified by the Board (being part of the production period of such producer for that facility) during which such producer may not raise or keep laying hens in that facility;

"extra-provincial number" means the number of laying hens which the Board determines that a person is authorized or permitted to raise or keep, or is able to raise or keep by virtue of an exemption or otherwise, in any point in time, by an extra-provincial board other than the Canadian Hatching Egg Producers;

"facility" means any building, structure, equipment or land used for raising or keeping laying hens;

"global allocation" means the number of laying hens that the Board anticipates will be required at any point in time to produce the quantity of hatching eggs authorized to be marketed during any period;

"immediate family" means an individual's spouse, parent, child, grandchild, or the spouse of the individual's child or grandchild;

"laying hen" means a broiler breeder laying hen that is twenty-four (24) weeks of age or older;

"Laying Hen Possession Certificate" means a certificate issued by the Board to a registered producer with respect to a facility confirming the maximum number of laying hens that such producer may raise or keep in such facility at any point in time during all or a portion of the production period for that facility, and specifying the down time with respect to that facility;

"maximum quota" means a broiler breeder laying hen quota of, or broiler breeder laying hen quotas which aggregate, 30,000 laying hens, provided that in determining the maximum quota applicable to a person, such 30,000 laying hens shall be reduced by an amount equal to the extra-provincial number attributed to such person;

"minimum quota" means a broiler breeder laying hen quota, or an aggregate of broiler breeder laying hen quotas, of 10,000 laying hens;

"On-Farm Food Safety Assurance Program (Hatching Egg)" means the program approved by the Board and designated with that name, as same may be amended or varied from time to time, whether published by the Board or published by the Canadian Food Inspection Agency or other party specified by the Board;

"production period" with respect to a facility of a registered producer means the 52 consecutive week period specified by the Board during which such producer may raise or keep laying hens in that facility pursuant to a broiler breeder laying hen quota allotted to such producer, inclusive of the down time specified for that facility;

"quota" means a broiler breeder laying hen quota;

"registered producer" means a broiler hatching egg producer who is duly registered with the Board and whose registration is in good standing.

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PART II

ALLOCATION AND ADJUSTMENT OF QUOTA

Application for quota

2 Any person may apply to this Board for the allotment of a quota at any time. Every application shall be in writing in a form prescribed by this Board and must be signed by the applicant and forwarded to the head office of this Board at 1357 Kenaston Boulevard, Winnipeg, MB R3P 2P2.

Criteria for allotment of quota

3(1) Each applicant for an allotment of a quota must be the registered owner or the sole operator of a facility that meets all of the requirements or standards for buildings, equipment, operation, egg storage, and animal health established by the Board from time to time.

Conditional allotment of quota

3(2) The Board may allot a quota conditional upon the acquisition of a facility within a specified period of time.

Minimum allotment

3(3) The Board will not allot a quota to an applicant for less than minimum quota.

List to indicate quota

4 Subject to the provisions of this Order, the quota allotted to a registered producer shall be equal to the number of laying hens shown opposite the producer's name on the list of registered producers approved by the Board on the 6th day of December, 2007 as same may be amended by resolution of the Board from time to time to reflect alterations or additions or deletions to same.

Amendments to list

5 The Board may, by resolution, amend the list referred to in section 4 to increase or decrease the quota allotted to a registered producer

(a) on a pro rata basis to reflect each registered producer's share of the global allocation at any point in time;

(b) as provided in Part XI; and

(c) as otherwise provided in this Order.

Maximum quota

6 The quota allotted to a registered producer shall not exceed maximum quota, provided that if a registered producer

(a) has, prior to the calendar year 2007, being effectively allotted quotas that aggregate in excess of maximum quota; or

(b) has, as permitted pursuant to subsection 19(2) of this Order, been effectively reallocated a quota in excess of maximum quota, or has been permitted to acquire an interest in a substantial holder of an entity that has been allotted a quota in excess of maximum quota;

this limitation shall not apply to such registered producer; and such registered producer shall not be entitled to an increase in the quotas allotted to the producer or to a temporary laying hen permit.

Production period

7 The production period of each registered producer for each of such producer's facilities shall be specified by the Board. A registered producer may apply to the Board from time to time for a change in any such production period. Any such application should indicate the hatchery operator to whom the producer intends to market the broiler hatching eggs produced during such production period.

Activities within a production period

8 In allotting a broiler breeder laying hen quota, the Board will specify the commencement dates and the termination dates during which time the producer may raise or keep all or a portion of the laying hens such producer is entitled to raise or keep during such production period pursuant to the broiler breeder laying hen quota allotted to such producer, the facility or facilities in which such laying hens or any portion of them must be raised or kept, and will specify such producer's down time for each such facility. Such information will be shown on the Laying Hen Possession Certificate issued to such producer. A producer may apply to the Board from time to time for a change in such activity dates.

Temporary adjustments

9 If the Board estimates that

(a) registered producers may produce more broiler hatching eggs during any particular time than the Board estimates are required during that period of time, the Board may, from time to time, require a registered producer to cease raising or keeping laying hens in a facility prior to the end of such producer's production period, and may alter a producer's down time with respect to a facility accordingly; or

(b) a registered producer will not be able to achieve sufficient broiler hatching egg production during any particular period of time, the Board may

(i) extend the production period of a registered producer and reduce such producer's down time, or

(ii) temporarily increase a broiler breeder laying hen quota of a registered producer.

PART III**TEMPORARY LAYING HEN PERMITS****Application for temporary laying hen permits**

10 Any person may apply to the Board for a temporary laying hen possession permit.

Term and terms of permits

11 The Board may issue temporary laying hen possession permits for a term of not more than 38 weeks on such terms and conditions as the Board may establish, and may suspend, amend, or cancel such permits.

PART IV

REDUCTION OR CANCELLATION OF QUOTA

Cancellation of quota on death, winding up, etc.

12 The Board may cancel a quota allotted to a registered producer in the event of the death of the registered producer, the winding up or dissolution of the registered producer that is a corporation, or the dissolution of the registered producer that is a partnership.

Cancellation of quota on cancellation of registration

13 The quotas allotted to a person shall be automatically cancelled in the event such person ceases to be a registered producer.

Other reduction or cancellation of quota

14 The Board may suspend, reduce or cancel, either on a temporary basis or on a permanent basis, a quota

- (a) as set out in this Order;
- (b) where a producer has failed to comply with any regulation, order, or directive of the Board;
- (c) where the facilities of a producer fail to meet the requirements or standards for raising and keeping laying hens and handling broiler hatching eggs produced by such laying hens as may be established by the Board;
- (d) where a producer becomes insolvent or bankrupt or applies for a receiving order or has such an order made against it or takes any benefit from any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to the facilities used by a producer;
- (e) where a producer has entered into a contract or agreement that would
 - (i) deprive the producer of that producer's right to the proceeds from the marketing of broiler hatching eggs produced by him,
 - (ii) deprive the producer of that producer's right to a payment or an entitlement to a payment or an anticipated payment from the Retirement and Quota Reallocation System to another person without the prior written consent of the Board,
 - (iii) require the producer to purchase a product or a service in connection with the marketing of broiler hatching eggs produced by such producer, or
 - (iv) obligate the producer with respect to the marketing of broiler hatching eggs produced by such producer in connection with the acquisition of a product or a service by such producer;
- (f) where the Board has determined that the producer has failed to comply with the On-Farm Food Safety Assurance Program (Hatching Egg); or
- (g) if the Board has reasonable grounds for believing that such action is in the interests of Manitoba producers and the broiler hatching egg industry.

PART V

OWNERSHIP OF QUOTAS

Quotas belong to the Board

15 Quotas are the property of the Board.

Quotas non transferable by producer

16 No person shall

(a) transfer, assign, or sell a quota to another person; or

(b) offer to transfer, assign, or sell a quota to another person, or receive payment for a quota, or offer to buy a quota from a producer, or make a payment to a producer for a quota.

Retirement and quota reallocation system payments non transferable

17 No person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment from the Retirement and Quota Reallocation System to another person without the prior written consent of the Board.

PART VI

PROHIBITIONS

Prohibitions

18(1) No person shall raise or keep laying hens unless such person has been allotted a broiler breeder laying hen quota by this Board or a temporary laying hen possession permit.

18(2) No person to whom this Board has allotted a broiler breeder laying hen quota shall raise or keep laying hens in a facility during such person's production period which aggregate in excess of the broiler breeder laying hen quota allotted to such person by this Board for that facility.

18(3) No person to whom this Board has issued a temporary laying hen possession permit shall raise or keep laying hens in excess of the number of laying hens specified on such permit.

18(4) Unless otherwise permitted by this Board in writing, no person shall raise or keep laying hens other than in or on a facility that has been certified by this Board for such purposes.

18(5) No person shall raise or keep laying hens unless such person has been issued a Laying Hen Possession Certificate by this Board.

18(6) No person shall raise or keep laying hens other than in or on the facility specified on the current Laying Hen Possession Certificate issued to such person by this Board.

18(7) No person shall raise or keep laying hens in a facility unless a Laying Hen Possession Certificate issued to such person is prominently displayed on that facility.

18(8) No person shall raise or keep laying hens in or on a facility at any point in time in excess of the number of laying hens specified on the current Laying Hen Possession Certificate issued to that person by this Board for that facility for that point in time.

PART VII

GENERAL

Allotments to associated producers

19(1) If two or more producers are associated, the Board may treat the quotas allotted to one of them as having been allotted to any of them.

Acquisitions of interests in excess of maximum quota prohibited

19(1.1) Notwithstanding anything contained in this Order, but subject to subsection 19(2) and sections 20 and 30, the Board may take appropriate action to prevent any person from acquiring control of or acquiring a direct or indirect interest in quotas in excess of maximum quota.

Exception for grandfathered operations in excess of maximum quota

19(2) Notwithstanding subsection (1.1), the Board may

(a) approve the reallocation of a quota and allotment in excess of maximum quota to a person who does not have a direct or indirect interest in a quota at the time of such reallocation; and

(b) suspend the provisions of section 30 if the proposed new beneficial or legal owner does not have a direct or indirect interest in a registered producer at the time of the transfer of beneficial or legal ownership to such owner.

M.R. 132/2016

Exception for financial assistance to children

20 Notwithstanding section 19, the Board may approve the provision of financial assistance by a registered producer to one or more children of the registered producer, or of a shareholder of a registered producer, or of a partner of a registered producer, for the purpose of enabling such child or children to acquire facilities and to become a registered producer. Any such approval will be subject to the applicants' satisfying the Board that

(a) the broiler hatching egg production business of the child or children will be completely separate from and independent of the broiler hatching egg production business of such registered producer (i.e. the businesses will be carried on separate parcels of land, in separate facilities; there will be no sharing on a day to day basis of labour; there will be no commingling of supplies or feed; there will be no mutual ownership of any assets used in the businesses; there will be no sharing of profits or losses; the parties keep and maintain separate financial statements and file income tax return as separate entities);

(b) such financial assistance is unsecured, directly or indirectly, with respect to the facilities and laying hens owned by the child or children; and

(c) the broiler hatching egg production business to be carried on by the child or children of the registered producer will operate completely independent of the registered producer.

The applicants shall provide the Board with an Undertaking in a form acceptable to the Board with respect to the matters set out in clauses (a) to (c) above.

Step-transactions prohibited

21 Notwithstanding anything contained in this Order, the Board will take appropriate action to prevent a person from acquiring control of, or acquiring a direct or indirect interest in quotas through a process

(a) that involves more than one application to the Board; or

(b) that does not disclose to the Board, in conjunction with an application to the Board for any reallocation of quota, particulars of all contemplated or proposed future transactions which may involve

(i) a subsequent reallocation of quota,

(ii) a future change in the legal or beneficial ownership of an entity, or

(iii) an application to transfer a quota from one facility to another facility.

PART VIII

CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

Special definitions

22 In this Part,

"controlling party" means a person who directly or indirectly is the legal or beneficial owner of an aggregate of more than 50% of any class of the issued shares of, assets of, or interest in an entity;

"entity" includes an association, partnership, body corporate, trust or other organization;

"substantial holder" means a person who directly or indirectly is the legal or beneficial owner of an aggregate of 10% or more of any class of the issued shares of, assets of, or interest in an entity;

"transfer" includes a sale, assignment, gift, bequest, devolution, purchase, mortgage, declaration of trust, or change in legal or beneficial rights.

M.R. 132/2016

Transfers by a substantial holder

23(1) If all or part of the beneficial or legal ownership of an interest in a substantial holder in an entity that is a registered producer is transferred by the legal or beneficial owner of the interest, the board may cancel or reduce the quotas of the registered producer unless the parties to the transfer have requested in writing that the board waive this subsection and have each provided the board, by statutory declaration and certificate, in a form acceptable to the board, full particulars of the proposed transfer, together with any other documents or information the board may require, and the board has in its discretion waived this subsection either conditionally or unconditionally.

23(2) The registered producer and the parties to the transfer must provide the board with a written undertaking, in a form satisfactory to the board, stating that the party will not apply

(a) for a retirement payment under the Retirement and Basic Allotment Reallocation System;

(b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;

(c) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;

(d) for the reallocation of the quotas allotted to the registered producer pursuant to Part X; or

(e) to relocate the facilities of the registered producer under section 46;

for a minimum of five years following the waiver unless the party has first received the approval of the board.

M.R. 30/2021

Grounds for non waiver re transfers

24 The board must not grant a waiver under subsection 23(1) if the proposed transfer will result in a person having a direct or indirect interest in a quota or quotas which aggregate in excess of the maximum quota.

M.R. 30/2021

Board's further powers re waiver

24.1 Without limiting the generality of subsection 23(1), the board may refuse a request for a waiver in the following circumstances:

(a) any aspect of the proposed transfer contravenes this order;

(b) value has been attributed, whether directly or indirectly, in any manner whatsoever, to the quotas of the registered producer at issue;

(c) any statutory declaration, certificate, or other information or document provided to the board in relation to the proposed transfer is false or misleading;

(d) a party to the proposed transfer has contravened a regulation, order or directive of the board;

(e) any undertaking required of a party to the proposed transfer has not been adhered to;

(f) a party to the proposed transfer has not complied with any terms or conditions required by the board in relation to the transfer;

(g) a refusal is in the interests of Manitoba producers, consumers, or the broiler breeder laying hen industry.

M.R. 30/2021

Bankruptcy or receivership of a controlling party

25 In the event a controlling party in an entity that is a registered producer becomes bankrupt or applies for a receiving order or has a receiving order made against it or takes the benefit of an act for time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to any interest of the controlling party in such registered producer, the Board may cancel or reduce the quotas of such registered producer unless the registered producer or the trustee or receiver requests in writing that the Board waive this provision and provides the Board, by statutory declaration and certificate in a form acceptable to the Board, with full particulars of such happening and the Board has in its discretion waived this provision either conditionally or unconditionally, provided however that the Board will only waive such discretion on a temporary basis, and on terms and conditions, in order to allow the Trustee in Bankruptcy or Receiver reasonable time to dispose of such interest in the controlling party.

False or misleading information

26 If the board determines that a statutory declaration, certificate, or other information or document provided to it under this Part is false or misleading, the board may cancel or reduce the quotas of the registered producer, whether or not the provisions of section 23 or 25 have been waived by the board, either conditionally or unconditionally.

M.R. 30/2021

27 [Repealed]

M.R. 132/2016; 30/2021

PART IX

ASSOCIATION OF REGISTERED PRODUCERS

Deemed association

28(1) For the purpose of this Order, a person is deemed to be associated with another person if

(a) both persons are members of the same immediate family;

(b) an individual has a legal or beneficial interest in the person and a member of that individual's immediate family has a legal or beneficial interest in the other person;

(c) one person is an entity of which the other person is an officer, director or substantial holder;

(d) one person is an entity of which the other person is a partner;

(e) one person is an entity that is controlled, directly or indirectly, by the other person;

(f) both persons are entities and one entity is controlled, directly or indirectly, by the same individual or entity that controls, directly or indirectly, the other person;

(g) both persons are members of a voting trust where the trust controls or operates or has an interest in the other person; or

(h) both persons are associated within the meanings of clauses (a) to (g) with the same person.

Association of producers

28(2) For the purpose of this Order, a producer shall be deemed to be associated with another producer if one person has a direct or indirect legal or beneficial interest in the producer, and a person associated with that person has a direct or indirect interest in the other producer.

M.R. 132/2016

Association of registered producers

29 In the event that a registered producer is or becomes associated with another registered producer, the Board may cancel or reduce the quotas of such registered producers unless the registered producers have requested in writing that the Board waive this provision and have each provided the Board, by statutory declaration and certificate, with full particulars of all persons having a direct or indirect interest in such registered producers and the Board has in its discretion waived this provision either conditionally or unconditionally.

M.R. 132/2016

Grounds for non-waiver re association

30 The provisions of section 29 will not be waived by the Board if the quotas allotted to such associated producers aggregate more than maximum quota or if the Board has reasonable grounds for believing that a person would directly or indirectly have a legal or beneficial interest in quotas which aggregate more than maximum quota; provided however that this provision shall not apply to producers which are associated solely as a result of individuals being members of the same immediate family, as long as the aggregate quotas to such producers do not exceed 200% of maximum quota.

M.R. 132/2016

False or misleading information re association

31 In the event that the Board has reasonable grounds for believing that any information provided to it by statutory declaration and certificate is false or misleading, or that any conditions established by the Board in waiving the provisions of section 29 have not been met by the parties, the Board may cancel or reduce the quota of the registered producers whether or not the provisions of section 29 have been previously waived by the Board.

PART X

REALLOTMENT OF QUOTA

Complete farm sales

32(1) When a registered producer sells the land, buildings, and equipment used by the producer for raising or keeping laying hens, the board may reallocate the quotas used in association with the facilities to any purchaser if it is satisfied that no value has been attributed to the quotas and that no more than fair market value has been paid for the facilities.

32(2) The registered producer and the purchaser must each submit a statutory declaration in a form acceptable to the board confirming the sale and purchase consideration (both direct and indirect), and all agreements between the registered producer and the purchaser (including a detailed listing of all assets included in such sale) must be included with the statutory declaration.

32(3) The purchaser must each provide the board with a written undertaking, in a form satisfactory to the board, stating that the purchaser will not apply

(a) for a retirement payment under the Retirement and Basic Allotment Reallocation System;

(b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;

(c) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;

(d) for the reallocation of the quotas allotted to the registered producer pursuant to Part X; or

(e) to relocate the facilities of the registered producer under section 46;

for a minimum of five years following the reallocation unless the party has first received the approval of the board.

M.R. 30/2021

Sale of moveable buildings and equipment

33(1) When a registered producer is selling a building used in raising or keeping laying hens, the board may reallocate the quotas associated with the building (and any equipment included in the sale) to the purchaser of the building if the board is satisfied that

(a) the building can be moved to a new foundation on the purchaser's property;

(b) the building and any equipment included in the sale are capable of being used for at least five years after being relocated and installed on the new foundation;

(c) the consideration for the building and any equipment included in the sale does not exceed their fair market value; and

(d) written consent is provided by all creditors of the registered producer who have been granted security with respect to the building (and any equipment included in the sale).

33(2) To be eligible for a reallocation under subsection (1), the registered producer and the purchaser must each provide the board with a statutory declaration that includes

- (a) a statement of all consideration, both direct and indirect, in relation to the sale of the building and, if applicable, the equipment;
- (b) confirmation that the purchaser is capable of complying with the requirements of clauses (1)(a) and (b);
- (c) copies of all agreements between the registered producer and purchaser in relation to the sale; and
- (d) a detailed list of all assets included in the sale.

33(3) The board must not reallocate quotas under subsection (1) before receiving a written undertaking from the purchaser stating that

- (a) the purchaser will use the building and any equipment included in the sale for at least five years after being relocated and installed; and
- (b) the purchaser will not apply for any of the following within five years of the board reallocating the quota without leave of the board:
 - (i) for a retirement payment under the Retirement and Basic Allotment Reallocation System;
 - (ii) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;
 - (iii) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;
 - (iv) for the reallocation of the quotas allotted to the registered producer pursuant to Part X;
 - (v) to relocate the facilities of the registered producer under section 46.

33(4) A statutory declaration under subsection (2) or a written undertaking under subsection (3) must be in a form acceptable to the board.

M.R. 30/2021

Lease of complete farm

34 In the event a registered producer leases the land, buildings, and equipment used by such producer in raising or keeping laying hens for a term not to exceed two years in length, the Board may temporarily reallocate the quotas used in association with such land, buildings and equipment to any lessee for the term of the lease provided it is satisfied that no value has been attributed to such quota and that no more than fair market rental for such facility is being paid under the lease arrangement directly or indirectly for the lease of such facility, or any other assets included in such lease (including any transaction with respect to laying hens).

In applying this provision the Board may require an appraisal of the facility to ascertain the fair market rental of the facility using an appraisal method or methods approved by the Manitoba Council, such costs to be borne by the applicants.

The applicants will each be required to provide a statutory declaration in a form acceptable to the Board confirming the rent consideration (both direct and indirect). All agreements between the registered producer and the lessee (including a detailed listing of all assets included in such lease) shall be appended to such statutory declaration.

In the event that the Board has reasonable grounds for believing that any information provided in such statutory declaration or any requested certificate is false or misleading, the Board may reduce or cancel the quotas in question, whether or not the quotas were temporarily reallocated.

At the end of the lease term such quotas shall automatically be reallocated by the Board back to the lessor. Any extension or renewal of a term under a lease will be treated as a new lease.

Bankruptcy or receivership of a registered producer

35 Notwithstanding clause 14(d), where a person who is a registered producer becomes a bankrupt or applies for a receiving order or has such an order made against such person or takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to the production assets of a registered producer, the Board may, upon written request of the Trustee in Bankruptcy or the Receiver, temporarily reallocate to the Trustee in Bankruptcy or Receiver the quotas allotted to such producer upon terms and conditions as may be established by the Board at the time of such temporary reallocation.

Reallocation of quota and dispensing with financial information on death, disability or retirement

36 In the event of the death, disability or retirement of an individual who is a registered producer, the Board may, on written request of such registered producer or of the personal representative of such deceased registered producer, reallocate the quota allotted to such registered producer to the heir or designated member of such registered producer's immediate family

(a) who becomes the owner of the broiler hatching egg production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for keeping laying hens; or

(b) who becomes the owner of the broiler hatching egg production business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection with such business as the successor in possession to such registered producer;

subject to any policies or directives of the board.

M.R. 30/2021

Reallotment of quota and dispensing with financial information on establishment of family partnership

37 Where an individual who is a registered producer enters into a partnership with a member of such producer's immediate family, the Board may, on written request of such registered producer, reallot the quota allotted to such registered producer to such partnership

(a) which becomes the owner of the broiler hatching egg production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for keeping laying hens; or

(b) which becomes the owner of the broiler hatching egg production business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection with such business as the successor in possession to such registered producer;

subject to any policies or directives of the board.

M.R. 30/2021

Reallotment of quota and dispensing with financial information on establishment of a corporation

38 Where an individual who is a registered producer incorporates a corporation controlled by that individual and/or members of that individual's immediate family, or where the partners who are registered producers incorporate a corporation owned by themselves in the same proportion as they owned interests in the partnership, or where a registered producer which is a corporation incorporates a wholly owned subsidiary, the Board may, on written request of such registered producer, reallot the quota allotted to such registered producer to such corporation or subsidiary

(a) which becomes the owner of the broiler hatching egg production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for keeping laying hens; or

(b) which becomes the owner of the broiler hatching egg production business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection with such business as the successor in possession to such registered producer;

subject to any policies or directives of the board.

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Partial and complete reallotment of quota to related persons

39(1) The following definitions apply in this section,

"applicant" means a registered producer who make an application to reallot all or a portion of the registered producer's quota to another person;

"daughter-Hutterite Colony" means a Hutterite Colony recently created as a result of the division of the assets and the membership of a Hutterite Colony;

"recipient" means the person who is to be reallocated all or a portion of a registered producer's quotas as the result of an application under this section.

39(2) The Board may, upon application of a registered producer in writing, reallocate all or a portion of the quotas allotted to such applicant to another person in the following circumstances:

- (a) with respect to an individual applicant, where the recipient is a member of such applicant's immediate family;
- (b) with respect to a partnership applicant, where all partners in the partnership are members of the same immediate family and where the recipient is a member of that immediate family;
- (c) with respect to a corporation applicant, where all legal and beneficial shareholders in such applicant are members of the same immediate family and where the recipient is a member of such immediate family;
- (d) with respect to a Hutterite Colony applicant (or a corporation applicant which is a wholly owned subsidiary of a Hutterite Colony) where the recipient is a wholly owned subsidiary of such applicant, or a daughter-Hutterite Colony, or a corporation wholly owned by a daughter-Hutterite Colony.

39(3) The Board shall not reallocate quotas to a recipient under subsection (2) until:

- (a) the recipient has established a separate facility owned and operated by the recipient in which to keep laying hens;
- (b) the Board is satisfied that the new operation of the recipient and the resulting operation of the applicant will both be economically viable; and
- (c) the Board is satisfied that no value has been attributed to such quota.

39(4) The applicant and the recipient must each provide the board with a statutory declaration in an acceptable form setting out the information required by the board.

39(5) The applicant and the recipient must each submit a written undertaking to the board, in a form satisfactory to the board, stating that they will not apply

- (a) for a retirement payment under the Retirement and Quota Reallocation System;
- (b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;
- (c) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;
- (d) for the reallocation of the quotas allotted to the registered producer pursuant to Part X; or

(e) to relocate the facilities of the registered producer under section 49;

for a minimum of five years following the reallocation unless they first receive the approval of the board.

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Reallocation and maximum quota

40 No quota will be reallocated to an applicant corporation or partnership if

(a) any beneficial shareholder of such applicant corporation or any beneficial owner of the assets of such applicant partnership is

(i) a registered producer,

(ii) a beneficial shareholder in a corporation which is a registered producer, or

(iii) a beneficial owner of the assets of a partnership which is a registered producer,

that has been allotted a quota or quotas which are equal to or aggregate in excess of maximum quota; or

(b) the Board has reasonable grounds for believing that as a result of such reallocation a person would directly or indirectly control or have an interest in quotas which aggregate more than maximum quota.

Board may refuse reallocation

40.1 Without limiting the powers of the board under this Part, the board may refuse to reallocate quota under this Part if it determines that

(a) any aspect of a proposed transfer contravenes this order;

(b) any statutory declaration, certificate, or other information or document provided to the board in relation to the proposed transfer is false or misleading;

(c) a party to the proposed transfer has contravened a regulation, order or directive of the board;

(d) any undertaking required of a party to the proposed transfer has not been adhered to;

(e) a party to the proposed transfer has not complied with any terms or conditions required by the board in relation to the transfer;

(f) a refusal is in the interests of Manitoba producers, consumers, or the broiler breeder laying hen industry.

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False or misleading information

40.2 If the board determines that any statutory declaration, certificate, document or other information provided to it under this Part is false or misleading, the board may cancel or reduce the quotas in question, whether or not the quotas were reallocated.

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PART XI

RETIREMENT AND QUOTA REALLOCATION SYSTEM

Reallocation of quotas under system

41 Broiler breeder laying hen quotas may be cancelled and reallocated by the Board in accordance with the procedure set out in the Schedule.

Acceptance of applications discretionary

42 The Designated Staff referred to in the Schedule may refuse to accept or postpone the processing of any application to participate in the Retirement and Quota Reallocation System for such reasons or on such terms as they deem appropriate.

PART XII

FACILITIES

Quota to be allotted for a facility

43 In allotting a quota to a registered producer, the Board will specify the facility in or on which the producer's laying hens, or any portion of such laying hens, must be raised or kept.

Facility capacity

44 A registered producer shall not keep more laying hens in a facility than its capacity approved by the Board.

Operating and handling standards

45 It is a condition of the allotment of a quota to a registered producer that such registered producer

- (a) equip and operate the facility in or on which such registered producer raises or keeps laying hens in such a manner as to provide proper ventilation, heating, feed and water, and sanitation for the laying hens kept in such facility and in accordance with the applicable provisions of the On-Farm Food Safety Assurance Program (Hatching Egg);

(b) otherwise care for and handle laying hens raised or kept by such producer in accordance with the applicable provisions of the "Recommended Code of Practice for the Care and Handling of Farm Animals - Chickens, Turkeys and Breeders from Hatchery to Processing Plant" distributed by Canada Agri-Food Research Council and in accordance with the applicable provisions of the On-Farm Food Safety Assurance Program (Hatching Egg);

(c) allow representatives of the Board to enter such facility, inspect such facility and to take samples from such facility as well as observe and monitor production and marketing activities within such facility;

(d) follow generally accepted management practices in handling broiler hatching eggs produced in such producer's facility; and

(e) store broiler hatching eggs produced in such producer's facility in a clean egg room which egg room shall at all times maintain a temperature of 16°C to 18°C (60°F to 65°F) and a relative humidity of 75% to 80%.

Relocation and consolidation of facilities

46 Subject to section 49, in the event that a registered producer has been allotted a portion of the quota allotted to such producer for one facility and a portion for another facility or facilities, such producer may apply to the Board to transfer all or part of such quota from one facility to another facility or facilities on a temporary or a permanent basis. A registered producer may make application to relocate such producer's laying hen and egg production activities to a new location.

Information and creditor consent for relocation

47 In conjunction with an application under section 46, a registered producer must provide the Board with such information as the Board may require and such consents as the Board may request from any creditor who has been given security on the facilities used by the registered producer.

Emergency relocation

48 The Board may allow a registered producer to temporarily relocate such producer's laying hens to another location in the event of an emergency, even if the registered producer is not the registered owner or the sole operator of the facility on that new location.

No application for change of facility for five years

49 In the event the Board

(a) approves a change in the beneficial ownership of a registered producer pursuant to Part VIII;

(b) approves an association of persons who are registered producers pursuant to the provisions of Part IX; or

(c) reallots the quota allotted to a registered producer pursuant to Part X;

it shall be a condition of such reallocation or such approval that the applicants for such approval or reallocation must acknowledge that only in the event of an unforeseen contingency acceptable to the board will a party be permitted to apply to transfer such quotas from the facility specified for use in connection with such quotas at the time of the change, association or reallocation, to a facility located on another property for a period of at least five years following the approval of such change, association or reallocation.

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Exception to five-year moratorium on applications

50 The Board may exempt a person from the provisions of section 49 with respect to reallocation of quota pursuant to sections 36 to 38 inclusive.

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Examination of facilities

51 It is the condition of the allotment of quota to a registered producer that such registered producer allow any duly authorized representative of the Board to examine and measure the interior and exterior dimensions of such producer's facility and to calculate minimum space requirements per laying hen for the purpose of ascertaining compliance of same with the provisions of sections 44 and 45. Prior to such examination, the Board will give reasonable notice to such registered producer of its intention to conduct such examination.

December 6, 2007

MANITOBA CHICKEN PRODUCERS:

Waldie Klassen
Chair

Wayne Hiltz
General Manager

APPROVED

February 25, 2008

MANITOBA FARM PRODUCTS
MARKETING COUNCIL:

David Gislason
Chairperson

Gordon H. MacKenzie
Secretary

SCHEDULE
(Part XI)

RETIREMENT AND QUOTA REALLOCATION SYSTEM

Quotas owned by Board

1 Notwithstanding the terms and provisions in this Schedule or of any forms or materials used in connection with this Schedule, as stated in section 15 of this Order, quotas are the property of the Board, and any quotas allotted pursuant to the procedure set out in this Schedule may be suspended, reduced or cancelled in accordance with this Order.

No assignment of payment

2 As stated in section 17 of this Order, no person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment under the Retirement and Quota Reallocation System to another person without the prior written consent of the Board.

Definitions

3 In this Schedule,

"Bid" means a request to be allotted a quota unit upon payment of an administration fee pursuant to the procedure set out in this Schedule;

"bidder" means a registered producer or an eligible person who in the opinion of Designated Staff has submitted a Bid in an acceptable form;

"Designated Staff" means those employees and other individuals designated by the Board from time to time to operate the Retirement and Quota Reallocation System;

"eligible person" means a person who is not a registered producer and who has met the criteria set out in section 3 of this Order;

"Notification List" means the List maintained by the Designated Staff pursuant to section 10 of this Schedule;

"Offer" means an application to have quota units cancelled upon receipt of a retirement payment pursuant to the procedure set out in this Schedule;

"offeror" means a registered producer who in the opinion of Designated Staff has submitted an Offer in an acceptable form with respect to quota units allocated to such producer by the Board;

"quota" means broiler breeder laying hen quota;

"quota unit" means a quota equal to one broiler breeder laying hen;

"Reallocation Day" means the day on which a Retirement and Reallocation Program is operated;

"Retirement and Quota Reallocation Program" means the procedure operated from time to time pursuant to this Schedule, whereby a registered producer may offer to have the whole or a portion of the quota allotted to such producer cancelled in the manner provided in this Schedule, and a registered producer or an eligible person may request that such quota units be allotted to such producer or person in the manner provided in this Schedule;

"Retirement Fund" means a trust account established by the Board to which all administration fees paid by successful bidders shall be credited and from which all retirement payments made to successful offerors will be debited.

Retirement and quota reallocation system administration

4 The Retirement and Quota Reallocation System shall be operated by the Designated Staff. The Designated Staff shall be responsible for receiving and processing Offers, establishing the date of each Reallocation Day, publishing such dates, receiving and processing Bids, operating each Retirement and Quota Reallocation Program and reporting the results to the Board.

The Manitoba Council may appoint members of its Staff to act as observers and auditors of each Retirement and Quota Reallocation Program.

Except as provided in subsection 7(11) and section 12 of this Schedule, all particulars with respect to an individual Offer or to an individual Bid shall be kept confidential by the Designated Staff and Manitoba Council observers and auditors, and shall not be disclosed to the Members of the Board, staff who are not Designated Staff, or any other person whatsoever.

The Board may prescribe forms to be used in the operation of a Retirement and Quota Reallocation Program from time to time. The Designated Staff may accept a Bid or an Offer, or an amendment or a withdrawal of a Bid or an Offer which is not in a prescribed form, as long as same is in writing and in the opinion of the Designated Staff substantially complies with any such prescribed form.

Application fees

5 Each Offer must be accompanied by a non refundable application fee. The amount of the application fee will be established by Resolution of the Board from time to time. All application fees shall be credited to the operating account of the Board.

Administration fees and retirement payments

6 In this Schedule, and in all forms and materials used in connection with the Retirement and Quota Reallocation System, all references to administration fees, and all references to retirement payments shall be expressed or shall be assumed to be expressed on a quota unit basis.

Each administration fee paid by a successful bidder must be paid on each quota unit allocated to such person.

Each retirement payment paid to a successful offeror will be paid on each of the quota units allocated to that person which are cancelled.

Retirement and quota reallocation program procedures

7(1) Designated Staff may operate a Retirement and Quota Reallocation Program for each category on such regular business day, as may be determined by Designated Staff, in consultation with the offeror, provided that said regular business day is not less than 30 days or more than 60 days following the date on which notification is given by the board to registered producers of such program.

7(2) Designated Staff may cancel, or may postpone, for up to seven (7) days at any time, the operation of any Retirement and Quota Reallocation Program for any reason they deem advisable.

7(3) A person wishing to submit an Offer must do so in writing, either by letter or telefax, in a form satisfactory to the Designated Staff, to the Board's head office.

7(4) Each Offer on a particular Retirement and Quota Reallocation Program must include any necessary application fee established by the Board for processing an Offer, together with the following information:

- (a) The amount of quota, expressed in quota units offered for cancellation;
- (b) The minimum retirement payment, to the nearest cent per quota unit, which the offeror is willing to accept upon cancellation of the quota units offered for cancellation;
- (c) The proposed date for cancellation of the quota units offered for cancellation;
- (d) The name, address and signature of the offeror; and
- (e) The Producer Registration Number of the offeror.

The Designated Staff may require an offeror to provide proof of the consent of any secured creditor of the offeror to the submission of such Offer.

7(5) Upon receipt of an Offer in an acceptable form, the Designated Staff shall determine the Reallocation Day for the operation for a Retirement and Quota Reallocation Program to deal with the Offer, and shall cause a notice to be mailed to each registered broiler hatching egg producer indicating the fact that an Offer has been received; the number of quota units offered for cancellation; the minimum retirement payment which the offeror is willing to accept upon cancellation of the quota units offered for cancellation; the proposed effective date for cancellation for the quota units; and the Reallocation Day. Such particulars shall also be mailed to each person on the Notification List.

7(6) A person wishing to submit a Bid on a Retirement and Quota Reallocation Program must do so in writing, either by letter or by telefax, in a form satisfactory to the Designated Staff, to the Board's head office, which must be received prior to 4:00 p.m. of the last working day before the month in which the Retirement and Quota Reallocation Program is to be held.

Each Bid on a particular Retirement and Quota Reallocation Program must include the following information:

- (a) the number of quota units requested for allotment;

(b) the administration fee, to the nearest cent per quota unit, which the bidder is willing to pay upon allotment of the quota requested for allotment;

(c) the name, address and signature of the bidder; and

(d) the Producer Registration Number of the bidder, where applicable.

Only one quantity of quota units may be specified in any Bid. The administration fee set out in a Bid must be at least equal to the minimum retirement payment set out in the Offer.

In order for a Bid to be eligible to be processed on a Program, the bidder must submit a separate bank draft or credit union primary order payable to the Board (or other method of payment or security for payment acceptable to the Designated Staff) representing the full amount of the administration fee such bidder proposes to pay in connection with that Bid, which must be received at the Board's head office no later than 4:00 p.m. of the last working day before the month in which the Retirement and Quota Reallocation Program is to be held.

7(7) In the case of an omission or defect in a Bid or in an Offer the Designated Staff may not make changes or additions to such Bid or Offer, and the Bid or Offer will be rejected. A member of the Designated Staff shall attempt to contact the bidder or offeror and to advise him/her of such rejection. The fact that a Bid or an Offer is rejected shall not preclude the bidder or offeror from submitting a subsequent Bid or Offer.

7(8) A Bid may be amended or withdrawn, provided such withdrawal or amendment is in writing and in the form of a letter or a telegram or a telefax satisfactory to the Designated Staff, sent by the bidder and is received at the head office of the Board prior to 4:00 p.m. of the last working day before the month in which the Retirement and Quota Reallocation Program is to be held. Such withdrawal or amendment must be clear and unambiguous and must identify the bidder by name and the Producer Registration Number, where applicable, and must specify the Bid that is to be withdrawn or amended.

Any Bid which is received after any deadline for submission for that Program will be rejected by the Designated Staff.

7(9) As provided in section 42 of this Order, the Designated Staff may refuse to accept or may postpone processing of any Bid or any Offer. Any decision to postpone the processing of a Bid or an Offer, or to reject a Bid or Offer made by the Designated Staff shall be final. The Designated Staff may also establish terms and conditions before a Bid or an Offer will be processed in the future. Any person who is not satisfied with the terms and conditions established by the Designated Staff before a Bid or Offer will be processed in the future may appeal such decision in writing to the Board.

7(10) On each Reallocation Day, the Designated Staff shall qualify all valid Bids for the quota units offered for cancellation where the administration fee set out in a Bid is at least equal to the minimum retirement payment set out in the Offer. In the event only one such qualified Bid is received for the quota units offered for cancellation, that Bid will be deemed to be the successful Bid. In the event more than one qualified Bid is received for the quota units offered for cancellation, the Bid offering the highest administration fee per quota unit will be deemed to be the successful Bid. In the event two or more such qualified Bids offering the highest administration fee per quota unit are identical, the Designated Staff shall conduct a lottery among such identical Bids to determine the successful Bid.

In the event the successful Bid offering the highest administration fee per quota unit is less than the number of quota units offered for cancellation, the qualified Bid offering the next highest administration fee per quota unit where the administration fee is at least equal to the minimum retirement payment set out in the Offer will be deemed to be the next successful Bid with respect to all or a portion of the balance of the quota units offered for cancellation. To the extent that the aggregate of the quota units comprising the qualified Bids deemed to be successful aggregate less than the number of quota units offered for cancellation, the qualified Bid offering the next highest administration fee per quota unit where the administration fee is at least equal to the minimum retirement payment set out in the Offer will be deemed to be the next successful Bid with respect to all or a portion of the balance of the quota units offered for cancellation, and such process shall be repeated until the successful Bids aggregate the number of quota units offered for cancellation. As a result of this process, in the event two or more such qualified Bids offering the highest administration fee per quota unit are identical, and the number of remaining quota units offered for cancellation are less than the aggregate of such Bids, the Designated Staff shall distribute the quota units rateably among such identical Bids.

In the event, as a result of the above procedure, the successful Bids still aggregate less than the number of quota units offered for cancellation, the Designated Staff shall qualify all valid Bids for the quota units offered for cancellation where the administration fee set out in the Bid is less than the minimum retirement payment set out in the Offer. The qualified Bids in this second grouping offering the next highest administration fee per quota unit will be deemed to be the next successful Bid with respect to all or a portion of the balance of the quota units offered for cancellation and such process shall be repeated until such successful Bids aggregate the number of quota units offered for cancellation. As a result of this process, in the event two or more qualified Bids from this grouping are identical, and the number of quota units offered for cancellation are less than the aggregate of such Bids, the Designated Staff shall distribute the quota units rateably among such identical Bids. In the event, as a result of this second procedure the aggregate administration fees which would be payable upon allotment of the quota units requested for allotment is less than the aggregate minimum retirement payment requested with respect to the quota units offered for cancellation, the Program shall be cancelled and the Offer and all Bids shall be deemed to be unsuccessful.

7(11) Following the operation of a Retirement and Quota Reallocation Program, the Designated Staff shall report to the Board particulars of the Offer, the number of Bids received, the number of quota units bid in each Bid, the administration fee offered with each Bid, and particulars of the successful Bids. The Board will review such report and if satisfied, in its sole discretion, that there have been no irregularities or deficiencies in the operation of the Retirement and Quota Reallocation Program, the Board may pass a resolution to accept such results.

Following the acceptance of the results of a Retirement and Quota Reallocation Program, the Board will pass a resolution to allot quota units to the successful bidders and to cancel quota units of successful offeror in order to implement such results and will determine the effective date or the process for determining the effective date to apply to such allotments and to such cancellations.

The allotment of quota units to a successful bidder who is a registered producer will be effective as of the later of the proposed cancellation date set out in the notice of the Offer and the commencement of such successful bidder's next production period which occurs after the acceptance of the results by the Board.

The allotment of quota units to a successful bidder who is an eligible person will be effective upon a date satisfactory to the Board and the eligible person for the commencement of such eligible person's first production period.

The cancellation of quota units allotted to a successful offeror will be effective as of a date specified by the Board which shall be no earlier than the proposed cancellation date set out in the notice of Offer and the end of such offeror's current production period following the acceptance of the results by the Board.

7(12) Following the Board's consideration of the results of a Retirement and Quota Reallocation Program, each participant in the Retirement and Quota Reallocation Program will be advised in writing by the Designated Staff whether such participant's Offer or Bid was successful, and if the Bid or Offer was successful, the effective date of the allotment or cancellation.

7(13) All funds submitted by unsuccessful bidders as proposed administration fees will be returned to such bidder.

Limits on bids and offers

8(1) An Offer which would result in the quota allotted to that offeror being reduced below minimum quota will be rejected by the Designated Staff. Any offeror allotted a quota equal to minimum quota or less must offer to cancel all such quota units to be eligible to be an offeror on a Retirement and Quota Reallocation Program.

8(2) No Offer of less than 500 quota units will be processed.

8(3) An offeror is not eligible to be a bidder on a Retirement and Quota Reallocation Program arising from the offeror's Offer.

8(4) No Bid shall be processed if the number of quota units comprising the Bid, when aggregated with the quota units allocated to such bidder, would exceed maximum quota.

8(5) A successful bidder will not subsequently be eligible to receive a retirement allowance in connection with the cancellation of the equivalent number of quota units under the System if all quota units allotted to such producer is cancelled within five years of such successful Bid. In the event such person subsequently submits an Offer of all quota units allotted to such person during such five year period, an equivalent number of quota units shall be debited against the number of quota units offered, so that the offeror will only be entitled to receive a retirement payment with respect to the balance of such quota units, and the quota units so debited shall be credited to the Transfer Assessment Pool.

A person who has been allotted an increase in quota under clause 5(a) of this Order shall not be entitled to submit an Offer which would result in the quota allotted to such person being reduced below the level established prior to such allotment for a minimum of five years following the date of such allotment.

No Bid by an eligible person for less than minimum quota will be processed.

Limits on offers by new producers

9 In the event a person is allocated a quota (the "initial allotment") and becomes a registered producer pursuant to an application made to the Board under section 2 of this Order, such person shall not be entitled to submit an Offer which would result in the quota allocated to that person being reduced below the initial allotment for a minimum of five years from the date of such initial allotment.

Retirement fund

10(1) All administration fees paid to the Board by successful bidders will be allocated to the Retirement Fund.

10(2) All retirement payments made by the Board to successful offerors will be paid from the Retirement Fund.

Notification lists

11 Any person who is not a registered producer and who wishes to participate in a Retirement and Quota Reallocation Program as a bidder may request in writing, in such form as the Board may prescribe for such purposes, that such person's name be added to the Notification List.

Any person added to the Notification List shall be deleted from that List one year after being added to such List. A person on such List may request, in such form as the Board may prescribe for such purposes, that such person's name be included on such List for a further one year period, provided such application is made not earlier than one month prior to the date upon which such person's name would otherwise be deleted from such List.

Information

12 The Board will forward to each registered broiler hatching egg producer in a form approved by the Manitoba Council, within 15 days following Board approval, the results of each Retirement and Quota Reallocation Program.

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