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

Root Crop Quota Order*

Regulation 12/95
Registered February 7, 1995

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* This order is made under the *Manitoba Vegetable Producers' Marketing Plan*, Manitoba Regulation 249/87 R and is Order No. 4, 1994 of Peak Vegetable Sales.

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PART I

DEFINITIONS

Definitions**1** In this Order

"**annual marketing quota**" means the number of common units of a type of root crop that a registered producer is authorized to market during a crop year;

"**common unit**" means in respect of

- (a) rutabagas – 50 pounds,
- (b) carrots – 50 pounds,
- (c) parsnips – 20 pounds,
- (d) Spanish-type onions – 50 pounds, and
- (e) cooking onions – 50 pounds;

"**crop year**" for each type of root crop means a period of time commencing July 1st in any calendar year and terminating when all root crops of that type grown and harvested in that calendar year by registered producers have been marketed;

"**delivery period**" for a type of root crop means a portion of a crop year during which each registered producer shall be entitled to market a portion of the annual marketing quota allotted to that producer for that type of root crop, provided that such producer has complied with notification procedures of the Board and has suitable root crop available for delivery;

"**delivery quota**" for a type of root crop means the amount of root crop of that type that a registered producer is entitled to market during a delivery period;

"**minimum annual marketing quota**" means in respect of

- (a) rutabagas – 3,200 common units,
- (b) carrots – 14,000 common units,
- (c) parsnips – 3,500 common units,
- (d) Spanish-type onions – 6,000 common units, and
- (e) cooking onions – 8,000 common units;

"maximum quota" means in respect of

- (a) rutabagas – 32,000 common units,
- (b) carrots – 140,000 common units,
- (c) parsnips – 35,000 common units,
- (d) Spanish-type onions – 60,000 common units, and
- (e) cooking onions – 80,000 common units;

"non-quota delivery period" for a type of root crop means a period of time when this Board is unable to meet the market demand for root crops of a type from the marketings available from producers within their delivery quotas, during which period of time registered producers who are actively marketing root crops of that type to this Board immediately prior to the commencement of such non-quota delivery period (or who have recently advised the Board of their willingness to market root crops of that type) will be invited to market a quantity of root crops of that type up to a specified amount (which marketings will not be counted as part of a producer's annual marketing quota or delivery quota for that type), in order that this Board might meet the market demand for root crops of that type during that period of time;

"open delivery period" for a type of root crop means a portion of a delivery period during which time each registered producer may market to this Board a portion of that producer's root crops of that type in excess of that producer's delivery quota for that type, in order that this Board might meet the market demand for root crops of that type;

"open quota" means that portion of the annual marketing quota allotted to a producer which may be marketed during an open delivery period;

"registered producer" means a registered root crop producer;

"root crops" includes the following:

- (a) rutabagas,
- (b) carrots,
- (c) parsnips,
- (d) onions;

"type" or **"type of root crop"** means

- (a) rutabagas,
- (b) carrots,
- (c) parsnips,

(d) yellow Spanish-type onions, or

(e) cooking onions.

M.R. 79/2016

PART II

QUOTA ALLOTMENT

Criteria for allotment of quota

2 Each applicant for the allotment of a quota must be the registered owner or the sole operator of land and equipment on which all root crops harvested by such person are grown.

Application for quota and increases in quota

3(1) Any registered producer wishing to engage in the marketing of a type of root crop shall make application to the Board for the allotment of a quota for each type of root crop such producer wishes to grow or harvest. Every application shall be in writing in a form prescribed by the Board and must be signed by the applicant and forwarded to the head office of the Board.

3(2) Any registered producer wishing an increase in an annual root crop quota for a type of root crop shall make application to this Board for such an increase. Each application shall be in writing and shall be in a form prescribed by this Board and must be signed by the applicant and forwarded to the head office of this Board between December 1 and December 31st in each year. Subject to the applicant meeting any criteria established by this Board, the applicant's name shall be placed on the appropriate waiting list of this Board for an increase in such quota for the following crop year. Once quotas have been established for that type of root crop for that crop year, such waiting list shall be cancelled.

M.R. 131/95

Waiting list for allocation of quota

4 Any individual wishing to engage in the marketing of a type of root crop shall make application to the Board for the allotment of an annual marketing quota for that type. Each application shall be in writing in a form prescribed by the Board and must be signed by the applicant and forwarded to the head office of this Board. Subject to the applicant meeting any criteria established by the Board, the applicant's name shall be placed on a waiting list of the Board for the allocation of an annual marketing quota of that type.

Any waiting list shall be effective for the period beginning January 1st of one year and terminating February 28th of that year (the "Allocation Period"). Applications to be placed on a waiting list will be accepted between December 1st and December 31st in the preceding year (the "Application Period"). Following December 31st of each year the Board will conduct a draw from the applications received during the Application Period to determine the order in which such applications will be placed on the waiting list for the Allocation Period. At the end of each Allocation Period the waiting list shall be cancelled and a new waiting list shall be established.

M.R. 84/95

PART III

ANNUAL MARKETING QUOTAS

Determination of annual marketing quotas

5 Subject to the provisions of the Plan, the Regulations and this Order, the annual marketing quota for each type of root crop allotted to a registered producer shall be equal to the annual marketing quota for that type of root crop allotted to such producer in the preceding crop year.

Notice of annual marketing quotas

6 The Board will advise each registered producer of the annual marketing quota(s) allotted to that producer on or about March 1st in each year and will advise that producer of any changes in such quotas from time to time.

M.R. 84/95

New and increased annual marketing quotas

7 Before March 1 in each calendar year, the Board will analyze the potential production for each type of root crop by registered producers and the potential markets available for Manitoba produced root crops of each type. If after allowing for possible yield variations, the Board expects that the aggregate potential production in Manitoba for any type of root crop will not meet potential markets available for that type of root crop (herein called the "shortfall"), the Board may allot additional annual marketing quotas for that type of root crop equal to the shortfall on the following priority:

(a) by allotting approximately 1/3 of the shortfall to applicants who have not previously been allotted an annual marketing quota for that type of root crop and who have applied for registration and an annual marketing quota for that type of root crop. Such annual marketing quotas will be allotted to applicants who have met all of the criteria of the Board in the order of priority determined in accordance with section 4. No person shall be entitled to be allotted an annual marketing quota under this provision in excess of minimum annual marketing quota for that type of root crop;

(b) by allotting approximately 1/3 of the shortfall by increasing the annual marketing quota for that type of root crop of each registered producer who has been allotted an annual marketing quota for that type of root crop which annual marketing quota for that type is less than the average marketing quota of registered producers of that type (provided such producer has applied for an increase in the annual marketing quota allotted to such producer, and further provided that the Board is satisfied that such producer has or will have marketed an amount of root crop of that type during the current crop year equal to 90% of the annual marketing quota allotted to such producer for that type), to bring each such registered producer up to a level where the annual marketing quota allotted to such producer is equal to the average size of annual marketing quota issued for that type of root crop (catastrophes excepted); and

(c) by allotting the balance of such shortfall as annual marketing quota equally among registered producers who marketed root crops of that type in the previous crop year and who applied for increases in the annual marketing quota allotted to such producer of that type. No producer shall be entitled to an increase in an annual marketing quota allotted to such producer for any type under this provision unless the Board is satisfied that producer has marketed or will be able to market an amount of root crop of that type equal to at least 90% of the annual marketing quota allotted to such producer for such type of root crop during such crop year (catastrophes excepted).

M.R. 84/95; 79/2016

Annual marketing quota not to exceed maximum quota

8 Notwithstanding anything set out in section 7, the aggregate annual marketing quota allotted to a registered producer shall not exceed maximum quota.

PART IV

DELIVERY SYSTEM

Delivery periods

9 This Board shall from time to time establish the method by which the termination date for delivery periods will be fixed for each type of root crop. If a delivery period for a type of root crop does not coincide with the pool period for that type of root crop, the Board will attempt to ensure that each eligible registered producer has an opportunity to deliver a proportionate share of that producer's delivery quota in each pool period.

Delivery quotas

10 Delivery quotas for each type of root crop (except pickling onions) will be allotted to registered producers based on the following scale:

(a) registered producers who have been allotted an annual marketing quota for a type of root crop aggregating 8,000 common units or less for that type shall be allocated a delivery quota for that type for each delivery period equal to 1/7 of the annual marketing quota allocated to the producer for that type;

(b) registered producers who have been allotted an annual marketing quota for a type of root crop of more 8,000 common units for that type is to be allocated a delivery quota for that type for each delivery period equal to 1,143 common units plus an amount equal to 1/9 of the annual marketing quota allocated to that producer for the type in excess of 8,000 common units.

M.R. 79/2016

Other delivery quotas

11 Delivery quotas for pickling onions will be allotted to registered producers who have been allotted an annual marketing quota for pickling onions based upon the anticipated market demand for pickling onions during a delivery period, and the proportionate share that each producer's annual marketing quota for pickling onions bears to the total of all annual marketing quotas for pickling onions allotted by the Board.

Notice prior to delivery

12 In each crop year each registered producer must give the Board at least 48 hours notice of that producer's desire to be placed on the delivery order list for each type of root crop and to commence deliveries for that type of root crop in that crop year. Satisfactory evidence of adequate size and maturity of each type of root crop shall be provided to the Board by the producer at the time of such notification.

Delivery order required

13 Each registered producer must obtain a delivery order or delivery order number from the Board office before delivering root crop to the Board.

Deletion from delivery order list

14 A registered producer will be removed from the current delivery order list for a type of root crop if that producer refuses or fails to fill a delivery order within a reasonable period of time after receiving 24 hours notice from the Board to deliver such type to the Board. No day in which the Board's plant is closed for business shall be included in determining the 24 hour period.

M.R. 131/95

Discontinuing deliveries re inferior quality

15 A registered producer whose root crops, in the Board's opinion, do not meet market requirements due to breakdown or inferior quality will be required to discontinue deliveries and will be removed from the delivery order list until such time as that producer can satisfy this Board that such producer has root crops of that type of an acceptable quality. It is the responsibility of each producer to follow proper procedure and to exercise precautions to ensure that such producer's root crops meet market requirements. In cases where the Board has withheld issuing delivery quotas to a producer because of quality problems, the Board may, by resolution, permit the resulting loss of delivery quota to be recovered in future delivery periods.

Resumption of accepting delivery orders

16 In the event that a registered producer is removed from a delivery order list for that type of root crop for any reason, such producer will not be placed on the delivery order list for that type of root crop until such producer has given the Board at least 48 hours advance notice of again wishing to commence deliveries and has provided the Board with satisfactory evidence that such producer is in a position to fill such delivery orders for that type of root crop. The onus of giving notice to this Board of such desire to resume delivery shall be upon the producer.

Pro-rating of root crop deliveries

17 A registered producer wishing to start deliveries part way through any delivery period will be given that portion of that producer's delivery quota equal to the percentage of delivery quota producers generally have left to be delivered during that delivery period.

Non-quota delivery period and open delivery period

18 Where, in the opinion of the Board, market demand makes it desirable to do so, a non-quota delivery period or open delivery period may be commenced by the Board for a specific grade, quality, or class of a type of root crop, without necessarily extending such period to other grades, qualities, classes or types of root crop.

Termination of non-quota or open delivery period

19 Before terminating a non-quota delivery period or an open delivery period for a type of root crop, the Board will endeavour to give at least one full business day's notice of such termination to registered producers who are able, and have been called upon to supply market demand during such non-quota delivery period or open delivery period. During such notice period no producer shall be entitled to deliver more than the average amount of that type which such producer delivered each day such producer delivered that type to the Board during such non-quota delivery period or open delivery period.

Non-quota deliveries not counted as annual marketing quota

20 Except for the purpose of calculating the amount of any type of root crop marketed by a producer in a crop year under Part VII hereof, deliveries made during a non-quota delivery period with the permission of the Board will not be considered part of, or entered against the producer's annual marketing quota for that crop year.

Surplus to quota deliveries

21 Once all registered producers have been given an opportunity to deliver a quantity of root crop of a type equal to the aggregate annual marketing quotas allotted to them for that type, the Board may declare a non-quota delivery period for that type of root crop. During such non-quota delivery period each registered producer who has been allotted an annual marketing quota for that type of root crop will be entitled to market an equal quantity of root crop of that type.

PART V

REDUCTION OR CANCELLATION OF ANNUAL MARKETING QUOTAS

Force majeure and stand downs

22 This Board may waive application of any provision of this Part if prior approval of this Board has been obtained to reduce or cease marketing root crop for a period of time, or if, in this Board's opinion, a producer's failure to market or reduction in marketings was beyond the control of that producer and such producer advised this Board in writing, in a form prescribed by the Board for such purpose, of the nature of such circumstances. In the event the circumstances beyond the control of a producer were related to the production or harvesting of root crop, such notification must be provided by the Board no later than June 30th of the year following the year in which such root crop was harvested.

M.R. 131/95

Reduction of annual marketing quotas for undermarketings

23 When a registered producer's annual marketings of any type of root crop in a crop year are less than 85% of the annual marketing quota for that type allotted to that producer for that crop year, the annual marketing quota for that type allotted to that producer for that next crop year shall be reduced by 1/3 of the difference between the annual marketing quota of that type allotted to that producer for that crop year and the actual marketings of that type by that producer during that crop year.

M.R. 131/95

Cancellation of annual marketing quotas

24 Where a registered producer has not marketed root crops of a type to or through this Board for a period of 2 consecutive crop years, the annual marketing quota allotted to that producer for that type of root crop shall be automatically cancelled.

Other reduction or cancellation of annual marketing quotas

25 In the event a registered producer is allotted new or increased annual marketing quota for any type of root crop in a crop year and, in the opinion of the Board, fails to produce sufficient root crop of that type in that crop year to enable such producer to market an amount of that type of root crop equal to the annual marketing quota allotted to that producer of that type, such new or increased portion of the annual marketing quota allotted to that producer for that type of root crop may be cancelled by the Board.

PART VI

OTHER REDUCTION OR CANCELLATION OF QUOTA

Cancellation of quotas on death, winding up, etc.

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

Cancellation of quotas on cancellation of registration

27 The annual marketing quotas allotted to a person shall be automatically cancelled in the event that person ceases to be a registered producer.

Other reduction or cancellation of quota

28 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; or
- (b) where a producer has failed to comply with any regulation, order, or directive of the Board; or
- (c) where a producer becomes insolvent or bankrupt or applies for a receiving order or has such an order made against it or takes the 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 root crops grown and harvested by, or the land or facilities used by a producer; or
- (d) where a producer has entered into a contract or agreement that would
 - (i) deprive such producer of such producer's right to the proceeds from the marketing of root crops grown and harvested by such producer, or
 - (ii) require such producer to purchase a product or a service in connection with the marketing of root crops grown or harvested by such producer, or

- (iii) obligate such producer with respect to the marketing of root crops grown or harvested by such producer in connection with the acquisition of a product or a service by such producer; or
- (e) if the Board has reasonable grounds for believing that such action is in the interests of Manitoba producers, consumers, or the root crop industry.

PART VII

OWNERSHIP OF QUOTAS

Quotas belong to board

29 Annual marketing quotas belong to the Board.

Quota non-transferable by producer

30 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.

PART VIII

MARKETING PROHIBITIONS

No marketings without a quota

31 Unless otherwise directed by this Board, no person who grows or harvests root crops shall market a type of root crop unless an annual marketing quota has been allotted to such person in respect of that type of root crop.

Retirement and annual root crop quota reallocation system payments non-transferable

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

M.R. 79/2016

No marketings in excess of annual marketing quota

32 Unless otherwise directed by this Board, no person who grows or harvests root crops shall market a type of root crop in any crop year in excess of the annual marketing quota for that type of root crop allocated to such person for that crop year.

No marketings in excess of delivery quota

33 Unless otherwise directed by this Board, no person who grows or harvests root crops shall market a type of root crop in any delivery period in excess of the delivery quota for that type of root crop allocated to such person for that delivery period.

PART IX

GENERAL

Unacceptable quality

34 Nothing in this Order requires the Board to include, in calculating the marketings of a producer, any root crops which are not of an acceptable market quality.

Effect of sharing

35(1) Where two or more persons grow or harvest root crops in partnership, or in circumstances where there is a sharing by them whether familial, communal, or otherwise, of the land, equipment, labour or services provided directly or indirectly by all or any of them, or pursuant to a contract jointly or severally with the same corporation, firm, or individual, for the purpose of this Order, the root crops grown, harvested or marketed by one of those persons may be treated by the Board as having been grown, harvested or marketed by the other or others, and the land on which one of those persons grows or harvests root crops may be treated by the Board as being the land on which the other or others grow or harvest root crops.

35(2) Notwithstanding subsection (1), the following activities by registered producers will not in themselves result in the type of treatment set out in subsection (1):

- (a) the ownership or use of equipment not normally utilized on a day-to-day basis in producing or marketing the regulated product;
- (b) the ownership or use of a facility to clean, grade or store a regulated product;
- (c) the investment in or ownership of handling or transportation equipment or businesses;
- (d) the formation of a purchasing group by which a registered producer may acquire supplies or equipment for use in the production or marketing of regulated product.

M.R. 140/2008

Acquisitions of interests in excess of maximum quota prohibited

36 Notwithstanding anything contained in this Order, but subject to section 37, the Board will 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 financial assistance to children

37 Notwithstanding section 36, 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 land and facilities, and to become a registered producer. Any such approval will be subject to the applicants' satisfying the Board that

- (a) the root crop production business of the child or children will be completely separate from the root crop production business of such registered producer (i.e. the businesses will be carried on on separate parcels of land; there will be no sharing on a day-to-day basis of facilities or labour; there will be no commingling of supplies; 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 returns as separate entities); and
- (b) such financial assistance is unsecured, directly or indirectly, with respect to the land, facilities, crops and inventory owned by the child or children; and
- (c) the root crop 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

38 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 re-allotment of a quota, particulars of all contemplated or proposed future transactions which may involve
 - (i) a subsequent re-allotment of a quota, or
 - (ii) a future change in the legal or beneficial ownership of an entity, or (iii) an application to transfer quota from one site to another site.

PART X

CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

Special definitions

39 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;

"**family corporation**" means a corporation in which all of the issued shares of the corporation are beneficially owned by individuals who are related to one another as parents, spouses, children, grandchildren, brothers, sisters, uncles, aunts, nieces, nephews, or the spouses or children of same;

"**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, purchase, mortgage, declaration of trust, or change in legal beneficial rights.

Transfers by a substantial holder

40(1) In the event all or part of the beneficial or legal ownership of an interest in an entity that is a registered producer is transferred by the legal or beneficial owner of such interest, the Board may cancel or reduce the annual marketing quotas of such registered producer unless the parties to such transfer have requested in writing that the Board waive this provision and have each provided the Board, by Statutory Declaration and Certificate in a form acceptable to the Board, with full particulars of the proposed transfer, and any other information with respect to the assets and liabilities of the entity at the effective date of such transfer, and the Board has in its discretion waived this provision either conditionally or unconditionally.

40(2) The registered producer and the parties to the transfer will each be required to provide the Board a written undertaking, in a form satisfactory to the Board, stating that such party will not apply

(a) for a retirement payment under the Retirement and Annual Root Crop Quota Reallocation System;

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

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

(d) for the re-allotment of the quotas allotted to the registered producer pursuant to Part XII; or

(e) to change the certified land or buildings specified by the Board for use by the registered producer to other land or buildings pursuant to section 58;

for a minimum of five years following such waiver unless such party has first received the approval of the Manitoba Council to such application.

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Grounds for non-waiver re transfer

41 The provisions of section 40 will not be waived by the Board if the Board has reasonable grounds for believing that as a result of such transfer a person would have a direct or indirect interest in annual marketing quota(s) for a type of root crop which aggregate in excess of maximum quota for that type of root crop.

Bankruptcy or receivership of a controlling party

42 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 any Act for the 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 provision 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 re transfers

43 In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration is false or misleading, or that any conditions established by the Board in waiving the provisions of section 40 or section 42 have not been met by the parties, the Board may cancel or reduce the annual marketing quotas of the registered producer whether or not the provisions of section 40 or section 42 have been previously waived by the Board.

Reduction of requirements re certain transfers

44 The Board may establish policies from time to time reducing its requirements under section 40

- (a) with respect to the transfer of shares of a corporation;
 - (i) from an individual to a member of such individual's immediate family, or
 - (ii) which is and after such transfer continues to be a family corporation unless 10% or more of the total outstanding shares of that class of the corporation are transferred; or
 - (iii) listed on a public stock exchange unless 10% or more of the total outstanding shares of that class of the corporation are transferred, provided that this clause does not apply in respect of a series of transfers of shares within a period of 18 months by or to any one person that in the aggregate total 10% or more of the outstanding shares of that class of the corporation; and
- (b) with respect to a change in the beneficial or legal ownership of an interest in a partnership that is a registered producer where the legal or beneficial ownership of an interest in such partnership is transferred from an individual to a member of such individual's immediate family; and
- (c) with respect to a change in the membership of a Hutterite Colony where that Hutterite Colony is a registered producer or is the sole legal and the sole beneficial owner of all of the issued shares of a corporation that is a registered producer.

PART XI

ASSOCIATION OF REGISTERED PRODUCERS

Deemed association

45 In this Part, a person is deemed to be associated with another person if

- (a) one person is an entity of which the other person is an officer, director or substantial holder; or
- (b) one person is an entity of which the other person is a partner; or
- (c) one person is an entity that is controlled, directly or indirectly, by the other person; or
- (d) 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; or
- (e) both persons are members of a voting trust where the trust controls or operates or has an interest in the other person; or
- (f) both persons are associated within the meanings of clauses (a) to (e) with the same person.

Association of registered producers

46(1) In the event that a registered producer becomes associated with another registered producer, the Board may cancel or reduce the annual marketing 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, 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.

46(2) The registered producers will each be required to provide to the Board a written undertaking, in a form satisfactory to the Board, stating that such party will not apply

- (a) for a retirement payment under the Retirement and Annual Root Crop Quota Reallocation System;
- (b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part X;
- (c) for the approval of an association of the registered producer with another registered producer pursuant to Part XI;
- (d) for the re-allotment of the quotas allotted to the registered producer pursuant to Part XII; or

(e) to change the certified land or buildings specified by the Board for use by the registered producer to other land or buildings pursuant to section 58;

for a minimum of five years following such waiver unless such party has first received the approval of the Manitoba Council to such application.

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Grounds for non-waiver re association

47 The provisions of section 46 will not be waived by Board if the Board has reasonable grounds for believing that as a result of such association a person would have a direct or indirect interest in annual marketing quota(s) for that type of root crop which aggregate in excess of maximum quota for that type of root crop.

False or misleading information re association

48 In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration is false or misleading, or that any conditions established by the Board in waiving the provisions of section 46 have not been met by the parties, the Board may cancel or reduce the annual marketing quotas of the registered producers whether or not the provisions of section 46 have been previously waived by the Board.

PART XII

RE-ALLOTMENT OF ANNUAL MARKETING QUOTA

Complete farm sales

49(1) In the event a registered producer sells the land, buildings, and equipment used by such producer in growing, harvesting and marketing a type of root crop, the Board may re-allot the quotas used in association with such assets to any purchaser provided it is satisfied that no value has been attributed to such quotas and that no more than fair market value has been paid for such assets.

49(2) In applying this section, the Board may require an appraisal of the assets by a qualified appraiser to ascertain the fair market value of the assets using an appraisal method or methods approved by the Manitoba Council, such costs to be borne by the applicant(s).

49(3) The applicants will each be required to provide a statutory declaration in a form acceptable to the Board, confirming the sale and the purchase consideration (both direct and indirect). All agreements between the registered producer and the purchaser (including a detailed listing of all assets included in such sale) 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 such quotas were re-allotted.

49(4) The purchaser will be required to provide to the Board 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 Annual Root Crop Quota Reallocation System;
- (b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part X;
- (c) for the approval of an association of the registered producer with another registered producer pursuant to Part XI;
- (d) for the re-allotment of the quotas allotted to the registered producer pursuant to Part XII; or
- (e) to change the certified land or buildings specified by the Board for use by the registered producer to other land or buildings pursuant to section 58;

for a minimum of five years following such re-allotment unless such party has first received the approval of the Manitoba Council to such application.

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Lease of complete farm

50 In the event a registered producer leases or licenses the land, buildings and equipment used by such producer in growing, harvesting and marketing root crops, for a term not to exceed 2 years in length, the Board may temporarily re-allot the quotas used in association with such land, buildings, and equipment to any lessee or licensee for the term of the lease or license provided it is satisfied that no value has been attributed to such annual marketing quota and that no more than fair market rental for such assets is being paid under the lease or license arrangement directly or indirectly for the lease of such assets, or any other assets included in such lease (including any transaction with respect to crops and inventory).

In applying this provision the Board may require an appraisal of the assets to ascertain the fair market rental of the assets using an appraisal method or methods approved by the Manitoba Council, such cost to be borne by the applicant(s).

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board confirming the rental 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 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 annual marketing quota was temporarily re-allotted.

At the end of the lease term such quotas shall automatically be re-allotted 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

51 Notwithstanding clause 28(c) hereof, where a person who is a registered producer becomes a bankrupt or applies for a receiving order or where such an order made against such a producer or where such a producer 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 or marketing assets of such a producer, the Board may, upon written request of the Trustee in Bankruptcy or the Receiver, temporarily re-allot 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 re-allotment.

Re-allotment of quota and dispensing with financial information on death, disability or retirement

52 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, re-allot the quotas 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 root crop production and marketing business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for growing and harvesting root crops; or

(b) who becomes the owner of the root crop production and marketing 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;

without the necessity to provide the Board with an appraisal of the facility or confirmation of any sale and purchase consideration.

Re-allotment of quota and dispensing with financial information on establishment of family partnership

53 Where an individual who is a registered producer enters into a partnership with a member of such individual's immediate family, the Board may, on written request of such registered producer, re-allot the quotas allotted to such registered producer to such partnership

(a) which becomes the owner of the root crop production and marketing business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for growing and harvesting root crops; or

(b) which becomes the owner of the root crop production and marketing 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;

without the necessity to provide the Board with an appraisal of the facility or confirmation of any sale and purchase consideration.

Re-allotment of quota and dispensing with financial information on establishment of a corporation

54 Where an individual who is a registered producer incorporates a corporation controlled by such individual and/or members of such 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, re-allot the quotas allotted to such registered producer to such corporation or subsidiary

(a) which becomes the owner of the root crop production and marketing business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for growing and harvesting root crops; or

(b) which becomes the owner of the root crop production and marketing 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;

without the necessity to provide the Board with an appraisal of the facility or confirmation of any sale and purchase consideration.

Partial and complete re-allotment of quota to related persons

55(1) The following definitions apply in this section.

"**applicant**" means a registered producer who makes an application to re-allot 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 membership of a Hutterite Colony.

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

55(2) The Board may, upon application of a registered producer in writing, re-allot 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 that 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.

55(3) The Board shall not re-allot quotas to a recipient under subsection (2) until:

- (a) the recipient has established a separate farm owned and operated by the recipient on which the recipient will grow, harvest and market root crops;
- (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 quotas.

55(4) The applicant and the recipient will each be required to provide a statutory declaration, in a form acceptable to the Board setting out the information specified therein. In the event that the Board has reasonable grounds for believing that any information provided in such statutory declaration or an application is false or misleading, the Board may cancel or reduce the quotas in question, whether or not such quotas were re-allotted.

55(5) The applicant and the recipient will each be required to provide to the Board a written undertaking, in a form satisfactory to the Board, stating that such party will not apply

- (a) for a retirement payment under Retirement and Annual Root Crop Quota Reallocation System;
- (b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part X;
- (c) for the approval of an association of the registered producer with another registered producer pursuant to Part XI;
- (d) for the re-allotment of the quotas allotted to the registered producer pursuant to Part XII; or
- (e) to change the certified land or buildings specified by the Board for use by the registered producer to other land or buildings pursuant to section 58;

for a minimum of five years following the re-allotment unless such party has first received the approval of the Manitoba Council to such application.

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Re-allotment and maximum quota

56 No quota will be re-allotted 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, or
 - (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 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 re-allotment a person would directly or indirectly control or have an interest in quotas which aggregate more than maximum quotas.

PART XII.1

RETIREMENT AND ANNUAL ROOT CROP QUOTA REALLOCATION SYSTEM

Realotment under system

56.1 Quotas may be cancelled and reallocated by the Board as a result of and in accordance with the procedure set out in the Schedule.

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Acceptance of applications discretionary

56.2 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 Annual Root Crop Quota Reallocation System for such reasons or on such terms as they deem appropriate.

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PART XIII

QUOTA AND CERTIFIED LAND

Quota to be allotted for certified land

57(1) In allotting a quota to a registered producer, the Board may specify the land on which the producer's root crops, or any portion of such root crops, must be grown and harvested.

57(2) A registered producer may apply to the Board to transfer a quota from currently certified land to other land on a temporary or a permanent basis.

57(3) In connection with an application under subsection (2), such registered producer shall provide the Board with such information as the Board may require and such consents which the Board may request from any creditor who has been given security on the certified land used by the registered producer.

No application for change of land or buildings for five years**58** In the event the Board

- (a) approves a change in the beneficial ownership of a registered producer pursuant to Part X;
- (b) approves an association of persons who are registered producers pursuant to the provisions of Part XI; or
- (c) re-allots the quota allotted to a registered producer pursuant to Part XII;

it shall be a condition of such re-allotment or such approval that the applicants for such approval or re-allotment must acknowledge that only in the event of an unforeseen contingency acceptable to the Manitoba Council will a party be permitted to change the certified land or buildings specified by the Board for use by such registered producer in connection with such quotas at the time of the change, association or re-allotment, to other lands or buildings for a period of at least five years following the approval of such change, association or re-allotment.

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Exception from 5 year moratorium on applications**59** The Board may exempt a person from the provisions of section 58 with respect to a transfer or change of the nature outlines in section 44, or with respect to the re-allotment of quotas pursuant to sections 52 and 54 inclusive.**Examination of certified land, storage facilities and inventory****60** It is the condition of the allotment of a quota to a registered producer that such registered producer allow any duly authorized representative of the Board to examine and measure such producer's certified land from time to time for the purpose of certification or re-certification of such land and to examine such producer's storage facilities and inventory. Prior to such examination, the Board will give reasonable notice to such registered producer of its intention to conduct such examination.

PART XIV

THE PLAN AND NON-APPLICATION

Non-application re direct consumer sales**61** As provided in the Plan, this Order does not apply to direct consumer sales.**Non-application re root crops of small root crop producer****62** This Order does not apply to the marketing of root crops of a type grown by a person who is a small root crop producer.**63** Repealed.

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Direct pricing sales

64 This Board may from time to time, by resolution, exempt certain registered producers from the provisions of this Order on such terms and conditions as it deems appropriate, for the purpose of encouraging and developing the marketing of root crops by this Board in market areas not traditionally supplied by root crop producers or for the purpose of dealing with special temporary marketing circumstances.

Exemptions re onions

65 As provided in the Plan, green onions are exempt from this Order.

Non-application re certain onions

66 This Order does not apply to pickling onions, multiplier onion sets, red Spanish-type onions or white Spanish-type onions.

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Further non-application

67 This Order is subject to the provisions of section 28 of the Plan.

July 21, 1994

PEAK VEGETABLE SALES:

David Jeffries
Chairman

John Kuhl
Secretary

APPROVED

January 17, 1995

THE MANITOBA NATURAL PRODUCTS
MARKETING COUNCIL:

Howard Motheral
Chairman

Gordon MacKenzie
Secretary

SCHEDULE
(Section 56.1)

RETIREMENT AND ANNUAL ROOT CROP
QUOTA REALLOCATION SYSTEM

Quotas belong to 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 29 of this Order, quotas belong to the Board, and any quota units 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 31.1 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 Annual Root Crop 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 of a type under the System upon payment of an administration fee pursuant to the procedure set out in this Schedule;

"bidder" means an eligible 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 Annual Root Crop Quota Reallocation System;

"Effective Retirement Payment" means, for Offers received during the period commencing September 1 of one calendar year and terminating on March 31 of the following calendar year, a sum per quota unit established by a resolution of the Board prior to the commencement of such period; provided the Board may by resolution amend such sum from time to time during such period, but no such amendment shall take effect earlier than the first day of the calendar month at least 30 days after the date of the resolution establishing such amended sum;

"eligible person" means a person who is not a registered root crop producer and who has met the criteria set out in section 2 of this Order;

"eligible producer" means a registered root crop producer;

"Notification List" means the List maintained by the Designated Staff pursuant to section 14 of this Schedule;

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

"offeror" means a registered root crop producer who is current with all payments owing to the Board and is otherwise in good standing with the Board, and who in the opinion of Designated Staff, submitted an Offer in an acceptable form with respect to quota units allocated to the registered producer by the Board;

"quota unit" means an annual root crop for a type equal to one common unit for that type of root crop;

"Reallocation Day" means the day on which a Retirement and Annual Root Crop Quota Reallocation Program is operated;

"Retirement and Annual Root Crop Quota Reallocation Program" means the procedure operated from time to time pursuant to this Schedule, whereby a registered root crop producer may offer to have the whole or a portion of the quota units of a type allotted to such registered producer cancelled in the manner provided in this Schedule, and an eligible producer or an eligible person may request that quota units of a type be allotted to such 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 annual root crop quota reallocation system administration

4 The Retirement and Annual Root Crop 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 Annual Root Crop Quota Reallocation Program, and reporting such results to the Board.

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

Except as provided in subsection 7(14) and section 15 of this Schedule and to the extent necessary to provide the notices under subsection 7(8) or as otherwise required in 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, 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 Annual Root Crop Quota Reallocation Program from time to time. The Designated Staff may accept 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 The Board may by Resolution from time to time establish a non-refundable application fee for Offers under this Schedule. Each Offer must be accompanied by any necessary application fee. All application fees shall be credited to an 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 Annual Root Crop 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 90% of the quota units cancelled (see section 10 re Transfer Assessment).

Retirement and annual root crop quota reallocation program procedures

7(1) Upon receipt of an Offer, the Designated Staff shall operate a Retirement and Annual Root Crop Quota Reallocation Program for that Offer on or before the last business day of the month following the month in which notification of receipt of the Offer was given by the Board to eligible producers and eligible persons.

7(2) For greater certainty, the Board may operate a Retirement and Annual Root Crop Quota Reallocation Program for more than one Offer during the same period of time.

7(3) Designated Staff may cancel, or may postpone, for up to 14 days at any time, the operation of any Retirement and Annual Root Crop Quota Reallocation Program for an Offer for any reason they deem advisable.

7(4) A person wishing to submit an Offer must do so in writing, by letter, in a form satisfactory to the Designated Staff, to the Board's head office, which must be received between September 1 of one calendar year and March 31 of the following calendar year.

7(5) Each Offer must include any necessary application fee established by the Board for processing an Offer, together with the following information:

- (a) the name, address and signature of the offeror;
- (b) the Producer Registration Number of the offeror;
- (c) the number of quota units offered for cancellation;
- (d) the type of the quota units offered;
- (e) an undertaking that the offeror is willing to accept a retirement payment equal to the then current Effective Retirement Payment upon cancellation of the quota units offered for cancellation;
- (f) an undertaking that the Offer will not be withdrawn by the offeror once a notice of the Offer has been given pursuant to subsection 7(8);

(g) such other particulars with respect to the marketings or anticipated marketings of the offeror which may be required in order to complete the form of Offer;

(h) an acknowledgment that in the event that Bids received for a Program are less than the number of quota units offered for cancellation on that Program, the Offer of the offeror may be reduced to a lesser number.

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(6) An Offer which would result in the remaining annual root crop quota of a type allocated to that offeror being reduced to a level below minimum annual marketing quota for that type of root crop will be rejected by the Designated Staff unless the offeror is offering to cancel all quota units of that type allocated to the Offeror.

7(7) No Offer of quota units of a type for less than minimum annual marketing quota for that type of root crop will be processed unless the offeror has been allotted an annual root crop quota of less than minimum annual marketing quota for that type of root crop, in which instance the offeror must offer to cancel all such quota units of that type.

7(8) Upon receipt of one or more Offers in an acceptable form during any calendar month between September 1 of one calendar year and March 31 of the following calendar year, the Designated Staff shall cause a notice to be mailed, faxed or e-mailed to each eligible producer and each eligible person indicating the fact that an Offer has been received; the Effective Retirement Payment per quota unit which an offeror is willing to accept upon cancellation of the quota units offered for cancellation for each Offer; the number of quota units offered for cancellation for each Offer; the type of quota units offered for each Offer; and the Reallocation Day. The notice may contain such other information with respect to each Offer and the options available to the registered producer as the Designated Staff deems appropriate.

7(9) An eligible producer or an eligible person wishing to submit a Bid on a Retirement and Annual Root Crop Quota Reallocation Program with respect to any Offer must do so in writing, by letter, to the Board's head office, in a form satisfactory to the Designated Staff, which Bid must be received by the Designated Staff prior to 4:00 p.m. on the last working day before the month in which the proposed Retirement and Annual Root Crop Quota Reallocation Program is to be held.

Each Bid for the allotment of quota units must be for the type and for the total number of quota units offered for cancellation.

In addition to the above disclosure, each Bid on a particular Retirement and Annual Root Crop Quota Reallocation Program must include the following information:

- (a) the name, address and signature of the bidder;
- (b) the Producer Registration Number of the bidder, where applicable;
- (c) the Offer to which the Bid is applicable;

(d) the administration fee which shall be equal to the Effective Retirement Payment per quota unit set out in the notice referred to in subsection 7(8) for the number of quota units comprising the Bid;

(e) an acknowledgement that the bidder is prepared to accept less than the number of quota units comprising the Bid;

(f) an acknowledgement, in the case of an eligible person, that the Bid will not be valid if the number of quota units available for allocation to successful bidders upon the initial operation of a Retirement and Annual Root Crop Quota Reallocation Program would result in an annual root crop quota to be allotted to such eligible person in an amount being less than minimum annual marketing quota for that type of root crop;

(g) an acknowledgement, in the case of a registered root crop producer, that the Bid will not be valid if the number of quota units available for allocation to successful bidders upon any operation of a Retirement and Annual Root Crop Quota Reallocation Program would result in an annual root crop quota to be allotted to such registered producer in an amount being less than minimum annual marketing quota for that type of root crop;

(h) an acknowledgment that the Bid will not be valid if the number of quota units requested when taken together with the number of quota units comprising the bidder's quota exceeds maximum quota.

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 (or other method of payment acceptable to the Designated Staff) payable to the Board 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 proposed Retirement and Annual Root Crop Quota Reallocation Program is to be held.

7(10) In the case of an omission or defect in a Bid or 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 such person 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(11) A Bid may be amended or withdrawn, provided such withdrawal or amendment is in writing and in the form of a letter 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 proposed Retirement and Annual Root Crop Quota Reallocation Program is to be held. Such withdrawal or amendment must be clear and unambiguous and must specify the bidder by name and by 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.

No Bid of a type will be accepted if the number of quota units offered for cancellation is less than minimum annual marketing quota for that type of root crop unless the bidder has already been allocated an annual root crop quota of that type.

No Bid will 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.

7(12) As provided in section 56.2 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 the decision in writing to the Board.

7(13) On each Reallocation Day, the Designated Staff shall qualify all valid Bids with respect to each Offer.

If there is more than one valid Bid with respect to an Offer, the amount available for allotment shall be apportioned among all such eligible bidders in equal amounts, provided that any Bid received from eligible persons shall be rejected if the amount available for allotment among such eligible bidders is less than minimum annual marketing quota for that type of root crop (and, following such rejection, the Designated Staff shall recalculate the amount available for allotment amongst all remaining eligible bidders in equal amounts); and further provided that upon recalculation any Bid received from a registered root crop producer bidder shall be rejected if the amount available for allotment amongst the remaining eligible bidders is less than minimum annual marketing quota for that type root crop and such bidder has not been allocated a root crop quota of that type.

7(14) Following the operation of a Retirement and Annual Root Crop Quota Reallocation Program for an Offer, the Designated Staff shall report to the Board particulars of the Offer, the number of Bids received, 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 that Retirement and Annual Root Crop Quota Reallocation Program, the Board may pass a resolution to accept such results.

Following the acceptance of the results of a Retirement and Annual Root Crop Quota Reallocation Program for an Offer, the Board will pass a resolution to allot quota units to the successful bidder and to cancel quota units of successful offerors in order to implement such results.

The allotment of quota units of a type to a successful bidder who is a registered root crop producer will be effective on the first day of July after the date on which the results of a Retirement and Annual Root Crop Quota Reallocation Program were accepted by the Board and shall be applicable to the marketing of root crops harvested after such effective date.

The allotment of quota units of a type to a successful bidder who is an eligible person will be effective upon the first day of July after the date on which the results of a Retirement and Annual Root Crop Quota Reallocation Program were accepted by the Board, provided that such allotment shall only be applicable with respect to crop grown by that successful bidder during the crop year commencing on such date.

The cancellation of quota units of a type allotted to a successful offeror will be effective as of the last day of June after the date on which the results of a Retirement and Annual Root Crop Quota Reallocation Program were accepted by the Board, provided however that the offeror shall be entitled to continue marketing root crops of that type after such date, provided those root crops were produced in the prior crop year and are of an acceptable quality, under the systems operated by the Board.

7(15) Following the Board's consideration of the results of a Retirement and Annual Root Crop Quota Reallocation Program, each participant in the Retirement and Annual Root Crop 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, and if successful, the effective date of the allotment or cancellation.

7(16) All funds submitted by unsuccessful bidders as proposed administration fees will be returned to such bidder.

All surplus funds submitted by successful bidders as proposed administration fees will be returned to such bidder.

Retirement fund

8(1) All administration fees paid to the Board by successful bidders will be allocated to the Retirement Fund.

8(2) All retirement payments made by the Board to successful offerors will be paid from the Retirement Fund.

Transfer assessment and transfer assessment pool

9(1) Each Offer shall be deemed to be reduced by a Transfer Assessment equivalent to 10% of the quota units offered for cancellation. In the event such calculation results in a fraction, the Transfer Assessment shall not include such fraction.

9(2) If an Offer is accepted, in whole or in part, as provided herein, the Transfer Assessment shall be credited to the Transfer Assessment Pool.

9(3) A Transfer Assessment Pool will be maintained for each type of root crops.

Allocation from the transfer assessment pool

10(1) The quota units credited to the Transfer Assessment Pool may, from time to time, be allocated by the Board as follows:

(a) a total of 50% to eligible producers who have applied in writing for an increase in their annual root crop quota for that type of root crop during the application period commencing December 1, and terminating December 31 of the previous calendar year, in equal numbers of quota units, provided that the quota units allocated to an eligible producer shall not be increased above maximum quota;

(b) a total of 50% to those persons who are on the waiting list referred to in section 4 of this Order, in the order of priority set out on such waiting list, in amounts of not less than minimum annual marketing quota for that type of root crop.

10(2) Applicants who are allotted quota units pursuant to clause (1)(b) shall be eligible to request allocation of additional quota units in subsequent allocations pursuant to clause (1)(a).

10(3) A person who receives an allotment under clause (1)(b) shall not be entitled to submit an Offer which would result in the annual root crop quota allotted to such person being reduced below minimum annual marketing quota for that type of root crop for a minimum of five years from the date of such allotment.

10(4) An eligible producer may be a successful bidder and may receive an allotment of quota units under clause (1)(a) on the same Reallocation Day.

Type and effective date of allocation from pool

11 In making an allocation from the Transfer Assessment Pool, the Board will specify the type of such allocation and the effective date of the allotment.

Five-year moratorium re new producers

12 In the event a person is allotted an annual root crop quota of a type (the "initial allotment") and becomes a registered root crop producer pursuant to an application to the board under section 4 of this Order, such person shall not be entitled to submit an Offer which would result in the annual root crop quota allotted to that person for that type being reduced below the initial allotment for a minimum of five years from the date of such initial allotment.

Five-year moratorium re bidders

13 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 are 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 90% of the balance of such quota units, and the quota units so debited shall be credited to the Transfer Assessment Pool.

Notification lists

14 Any person who is not an eligible producer and who wishes to participate in a Retirement and Annual Root Crop 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.

Five-year moratorium re increased annual root crop quota

15 In the event a person is allocated an increase in annual root crop quota of a type under section 7 of this Order, such person shall not be eligible to receive a retirement payment in connection with the cancellation of the equivalent number of quota units of that type under the System within five years of such increase. In the event such person submits an Offer of quota units of that type allotted to such person during such five-year period, a number of quota units of that type equal to the number of quota units allocated to such person under section 7 of this Order within such five-year period shall be debited against the number of quota units of that type offered, so that the offeror will only be entitled to receive a retirement payment with respect to 90% of the balance of such quota units of that type, and the quota units so debited shall be credited to the Transfer Assessment Pool.

Information

16 The Board will forward to each eligible producer, in a form approved by the Manitoba Council, within 15 days following Board approval, the results of the Retirement and Annual Root Crop Quota Reallocation Program.

M.R. 79/2016