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

Turkey Quota Order*

Regulation 38/2008
Registered February 27, 2008

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* This Order is made under the *Manitoba Turkey Producers Marketing Plan Regulation*, Manitoba 38/2004, and is Order No. 1, 2008 of Manitoba Turkey Producers.

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PART I
DEFINITIONS

Definitions

- 1** In this Order,

"Aggregate Provincial Basic Allotment" means the quantity, expressed in kilograms of turkey, equal to the aggregate of the basic allotments allotted to all registered producers during a marketing year;

"Aggregate Provincial New Base" means the quantity, expressed in kilograms of turkey, equal to the aggregate of the new bases allotted to all registered producers during a marketing year;

"allotment" means a basic allotment, a market allotment, or a new base, or any or all of them, as the context may require;

"basic allotment" means a base measurement, expressed in kilograms of turkey, from which the market allotment of a producer for a category is established;

"Basic Allotment/New Base List" means the list of registered producers approved by the Board on January 30, 2008 under the heading "Basic Allotment/New Base List" as may be amended by resolution of the Board from time to time to reflect alterations or additions or deletions to same in accordance with the terms of this Order;

"Breeder Allotment Set-Aside" means 305,550 kilograms of turkey authorized to be marketed under any Breeder/Mature Program of the Board in any marketing year;

"Breeder/Mature Program of the Board" means that program established by the Board from time to time which permits the marketing of turkey by a Turkey Egg Producer;

"broiler" means turkey produced within Manitoba which weighs 6.2 kilograms or under each (truck load average) when marketed by a producer;

"category" means

- (a) broilers,
- (b) hens,
- (c) toms,
- (d) heavy toms, and
- (e) turkeys marketed under any Breeder/Mature Program of the Board;

"Certificate of Production Premises" means a certificate issued by the Board to a registered producer specifying the facility or facilities in or on which such producer must raise or keep the turkeys that such producer is entitled to produce or to market pursuant to the allotments and quotas allocated to such producer;

"extra-provincial amount" means the number of kilograms of turkey which the Board determines that person is authorized or permitted to produce or market, or is able to produce or market by virtue of an exemption or otherwise, in a marketing year or similar period, by an extra-provincial board other than the Canadian Turkey Marketing Agency;

"federal quota" means the quantity of turkey of a category that a producer is entitled to market in interprovincial or export trade by the Canadian Turkey Marketing Agency during any marketing year;

"heavy tom" which means turkey produced within Manitoba which weighs over 13.3 kilograms each (truck load average) when marketed by a producer;

"hen" means turkey produced within Manitoba which weighs between 6.2 kilograms and 8.5 kilograms each (truck load average) when marketed by a producer;

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

"market allotment" for a category of turkey means the sum total of a producer's marketing quota plus such producer's federal quota for that category of turkey;

"marketing period" means the period of time specified by the Board during which a registered producer may produce and market turkeys of a category pursuant to a production quota and a periodic market allotment allotted to such producer;

"marketing quota" means the quantity of turkey of a category that a registered producer has been authorized by the Board to market in intra-provincial trade during any marketing year;

"marketing year" means,

(a) with respect to a registered producer other than a Turkey Egg Producer, a period which begins on the Sunday immediately following the last Saturday in April of each year and ends on the last Saturday in April of the following year, and

(b) with respect to a Turkey Egg Producer, the period of time specified by the Board during which the Turkey Egg Producer may produce and market turkeys under the Breeder/Mature Program of the Board;

"maximum allotment" means an allotment or allotments of broilers, hens, toms and heavy toms aggregating 600,000 kilograms of turkey per marketing year; provided that in determining the maximum allotment applicable to a person, such 600,000 kilograms amount shall be reduced by an amount equal to the extra-provincial amount attributed to that person;

"new base" means quantity, expressed in kilograms of turkey, which a registered producer's market allotment cannot exceed;

"On-Farm Food Safety Assurance Program" 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;

"periodic market allotment" means a portion of a market allotment;

"Poult Placement Permit" means a permit issued by this Board to a person authorizing that person to purchase or to otherwise take delivery of a specified number of turkeys under the age of 10 days old during a specified time period from a specified vendor;

"production quota" means the maximum number of turkeys of a category that a registered producer has been authorized to produce during a marketing period;

"quota" means a production quota or a marketing quota, or both, as the context may require;

"retirement and basic allotment (breeder/mature) reallocation system" means the retirement and basic allotment (breeder/mature) reallocation system approved by the Board on October 9, 2015;

"tom" means turkey produced within Manitoba which weighs between 8.5 kilograms and 13.3 kilograms each (truck load average) when marketed by a producer;

"Turkey Egg Producer" means a person engaged in the business of producing turkey eggs intended for hatching.

M.R. 112/2016; 113/2016

Live weight references

2 All references to weight of turkey in this Order are references to the live weight of such turkey (or equivalent).

PART II

ALLOTMENTS

Entitlement and criteria for allotment of quota

3(1) No person is entitled to be allotted a quota for a category of turkey unless such person has been allotted a basic allotment, a new base, and a market allotment for that category by the Board.

Limitation on turkey egg producers

3(2) No person who has been allotted a quota under the Breeder/Mature Program of the Board may be allotted a new base or is eligible to be allotted a basic quota, a new base or a market allotment by the Board for another category of turkey.

M.R. 113/2016

Facility requirement

4(1) Subject to section 5, each applicant for allotment of a quota and an allotment must be the registered owner or the sole operator of a facility that meets all of the requirements or standards for buildings and equipment established by the Board from time to time.

4(2) [Repealed] M.R. 113/2016

M.R. 113/2016

Conditional allotment

5 The Board may allot a quota and an allotment conditional upon the acquisition of a facility within a specified period of time.

Allocation to new entrants

6(1) Any waiting list established by the Board prior to January 1, 2008 shall cease to have effect on July 31, 2010.

6(2) Commencing August 1, 2010, from time to time the Board may select an individual or a Hutterite Colony to become a registered producer and may offer to allot a quota for a category of turkey to such person. In selecting such persons the Board may establish a system for receiving applications from such persons and a method of selecting such persons from amongst the applicants. Each application shall be in writing in a form prescribed by the Board, must be signed by the applicant and accompanied by the processing fees established by the Board, and must be forwarded to the head office of the Board.

In the event the Board offers to allot a quota, a basic allotment, a new base, and a market allotment for a category of turkey to a person and such person does not accept the terms and conditions proposed by the Board in making such offer within the time specified by the Board, or in the event a person fails to comply with any term or condition established by the Board in making such offer or allotment to the person, the Board may withdraw such offer and allotment.

No individual and no Hutterite Colony shall be eligible to be selected for an allocation under this section if that individual or that Colony is or at any time has been a registered producer or has had an interest, direct or indirect in a registered producer. For the purpose of this provision any person who is or was a partner or a shareholder of an entity that is or was a registered producer at a point in time shall be deemed to have an interest in that registered producer at that time.

The fact that

(a) the parent of an individual is or at any time has been a registered producer or has had an interest, direct or indirect in a registered producer; and

(b) a Hutterite Colony was established from the membership of a Hutterite Colony which is or at any time has been a registered producer or has had an interest, direct or indirect in a registered producer;

shall not in itself disqualify an individual or a Colony from being eligible to be selected under this section.

Establishment of basic allotments and new bases

7 Subject to the provisions of this Order, as of January 30, 2008 each registered producer shall be entitled to

(a) a basic allotment and to a new base for each category of turkey (other than turkey marketed under any Breeder/Mature Program of the Board) equal to the number of kilograms of turkey shown under the column for same opposite such producer's name for that category on the Basic Allotment/New Base List; and

(b) a basic allotment for turkeys marketed under any Breeder/Mature Program of the Board equal to the number of kilograms of turkey shown under the column for same opposite such producer's name for that category on the Basic Allotment/New Base List.

Allocation of market allotment from time to time

8 Subject to the provisions of this Order, each registered producer shall be allotted a market allotment for each category of turkey for which such producer has been allotted a basic allotment.

Calculation of market allotment (commercial)

9 A registered producer's market allotment for each category of turkey for which such producer has been allotted a basic allotment [other than for turkeys marketed under any Breeder/Mature Program of the Board and except as otherwise provided in section 10] shall be calculated from time to time as follows:

(a) if the anticipated market demand for turkey produced in Manitoba during any marketing year is more than the Aggregate Provincial Basic Allotment (such difference called the "Shortfall"), but less than the Aggregate Provincial New Base, the market allotment allotted to each registered producer for each category shall be equal to that producer's basic allotment for that category together with an equal share of the Shortfall, subject to the provisions of section 11 hereof, so that the anticipated market requirements for turkey during that marketing year are met; provided, however, that the Board may issue Temporary Market Allotment Permits in circumstances outlined in section 16 to registered producers for a marketing period;

(b) if the anticipated market demand for turkey produced in Manitoba during any marketing year is equal to the Aggregate Provincial Basic Allotment, the market allotment allotted to each registered producer for a category shall be equal to such producer's basic allotment for that category;

(c) if the anticipated market for turkey produced in Manitoba during any marketing year is less than the Aggregate Provincial Basic Allotment, the market allotment allotted to each registered producer for each category shall be determined by the Board in such manner that all registered producers share, as nearly as possible, a pro rata reduction from the market allotment they would have received under clause (b), so that the anticipated market requirements for turkey during that marketing year ought not to be exceeded.

Calculation of market allotment (breeder/mature program)

10 A registered producer's market allotment for turkeys marketed under any Breeder/Mature Program of the Board shall be equal to such producer's basic allotment for that category provided that the Board may issue a Temporary Market Allotment Permit in the circumstances outlined in section 16 to such a registered producer to facilitate the marketing of additional turkeys under the Breeder/Mature Program of the Board for a marketing period.

M.R. 113/2016

Market allotment not to exceed new base or maximum allotment

11 Notwithstanding anything set out in sections 9 and 10;

(a) a market allotment allocated to a registered producer for a category shall not exceed the new base of that producer for that category; and

(b) the aggregate market allotments allotted to a registered producer shall not exceed maximum allotment;

provided that if the Board has determined an extra-provincial amount for a registered producer prior to December 31, 1999, the limitation in (b) shall not apply to such registered producer, but such registered producer shall not be entitled to an increase in the basic allotments allotted to such producer or to the allotment of market allotments in excess of the basic allotments allotted to that producer if as a result of such increase the basic allotments allotted to that producer, when taken together with the extra-provincial amount determined for that producer, exceeds 600,000 kilograms.

Marketing periods

12 The marketing period of each registered producer during any marketing year may be specified by the Board. A registered producer may apply to the Board from time to time for a change in any such marketing period. Any such application should indicate the processing facility to which the producer intends to market the turkey to be marketed during such marketing period.

Limitation on marketing quotas

13 No producer is entitled to be allotted a marketing quota in any marketing year that would be in excess of the market allotment allotted to such producer, less any quantity of turkey marketed by such producer in interprovincial or export trade in any marketing year.

Determination of production quotas

14(1) The production quota of a registered producer other than a Turkey Egg Producer in each marketing period for each category of turkey for which that producer has been allotted a market allotment shall be equal to the number of turkey determined

(a) for broilers, by dividing the periodic market allotment allotted to that producer for broilers for that marketing period by 5.75;

(b) for hens, by dividing the periodic market allotment allotted to that producer for hens for that marketing period by 7.5;

(c) for toms, by dividing the periodic market allotment allotted to that producer for toms for that marketing period by 11.5; and

(d) for heavy toms, by dividing the periodic market allotment allotted to that producer for heavy toms for that marketing period by 13.3.

14(2) The production quota of a registered Turkey Egg Producer in each marketing year shall be equal to the number of turkey determined by the Board for that marketing year.

M.R. 113/2016

PART III
TEMPORARY PERMITS

Application for permit

15 A registered producer may apply to the Board from time to time for a temporary permit under this Part.

M.R. 68/2011

Temporary market allotment permits

16 The Board may issue Temporary Market Allotment Permits to registered producers:

- (a) if the Board is of the opinion that the Shortfall referred to in clause 9(a) is temporary in nature;
- (b) if the Board is of the opinion that special marketing circumstances exist whereby a particular type of turkey is required by the market or whereby turkey is required at any particular time of the year and cannot be filled in the manner set out in section 9;
- (c) to facilitate the marketing of mature turkeys by registered producers who are Turkey Egg Producers, as a result of the participation of the Board in the Multiplier Breeder Policy of Turkey Farmers of Canada;
- (d) to facilitate the marketing of turkey by registered producers to replace turkey produced, processed and exported from Canada pursuant to any planned processed export program operated by the Board; or
- (e) to authorize the marketing of at least 44,460 kilograms of hen, broiler, or tom turkey by a registered producer who has been allotted a basic allotment of less than 60,000 kilograms of hen, broiler, or tom turkey (unless such registered producer has been allotted a basic allotment under any Breeder/Mature Program of the Board).

M.R. 68/2011; 113/2016

Temporary production permits

16.1 The Board may issue temporary production permits to registered producers:

- (a) to facilitate the raising and keeping of turkey by registered producers to be marketed pursuant to a Temporary Market Allotment Permit; or
- (b) to facilitate the raising and keeping of turkey by registered producers to replace turkey to be exported from Canada in live form pursuant to any planned production for live export program operated by the Board.

M.R. 68/2011

Permits for research

17 The Board may issue temporary production permits and Temporary Market Allotment Permits to a non-registered person to permit the production and marketing of turkey raised for research purposes provided that

(a) the Board is satisfied that such turkey will be raised and marketed under conditions satisfactory to the Board; and

(b) satisfactory arrangements have been made with respect to the payment of any penalties in connection with any activities of the applicant which may be inconsistent with the terms and conditions established by the Board in issuing a temporary permit to the applicant.

M.R. 68/2011

Manner of allotting permits

18 The Board will allot temporary permits in such manner as it feels is in the best interests of the turkey industry in Manitoba.

M.R. 68/2011

Permit marketings not to be included

19 Turkey marketed pursuant to a Temporary Market Allotment Permit will not be counted as part of a producer's marketing in any marketing period for the purpose of this Order.

M.R. 68/2011

PART IV

CATEGORY CONVERSIONS

Application for category conversions

20 A registered producer may apply to the Board from time to time to have all or a portion of the basic allotments and new bases allotted to such producer changed from one category of turkey to another category, either on a temporary or on a permanent basis.

Consideration of application

21 All requests received by the Board to have all or a portion of the basic allotments and new bases allotted to a producer changed from one category of turkey to another category of turkey shall be considered by the Board on an individual basis. No changes will be approved by the Board unless the Board is of the opinion that market conditions warrant such change.

22 [Repealed]

M.R. 113/2016

Basis for conversion from breeders

23(1) This section is only applicable to a person who was a Turkey Egg Producer on April 30, 2007.

23(2) A registered producer who is a Turkey Egg Producer and who wishes to retire from the turkey egg production business and to utilize such producer's existing turkey egg production facilities to raise another category of turkey may apply to the Board to have the basic allotment allotted to such producer under the Breeder/Mature Program of the Board (in this section referred to as "Breeder Quota") permanently changed to basic allotment and new base for another category of turkey, on the following basis:

- (a) with respect to such basic allotment which resulted from a change under section 22, application may be made to convert back to the original category on a kilogram for kilogram basis;
- (b) with respect to such amount of the basic allotment which has been allotted to such applicant for over five consecutive years but less than 15 consecutive years, application may be made to convert on a kilogram for kilogram basis;
- (c) with respect to such amount of the basic allotment which has been allotted to such applicant for 15 consecutive years or over but less than 20 consecutive years, application may be made to convert on a one kilogram of Breeder Quota for 1.75 kilograms of alternate category basis;
- (d) with respect to such amount of the basic allotment which has been allotted to such applicant for 20 consecutive years or over, application may be made to convert on a one kilogram of Breeder Quota for 2.5 kilograms of alternate category basis;

provided however that

- (e) under no circumstances will the Board consider granting an application under this section if, as a result of the granting of such application, the aggregate of all basic allotments under the Breeder/Mature Program of the Board would fall below 305,550 kilograms;
- (f) the Board reserves the right to specify an alternate category of turkey for which the Breeder Quota may be converted, depending on market demand;
- (g) the basic allotment and new base for the alternate category of turkey will not be allotted until the Board is satisfied that the applicant has ceased all activities associated with and involvement in the turkey egg production business; and
- (h) in the event the applicant or anyone associated with the applicant becomes directly or indirectly involved in the turkey egg production business within a period of five years following a conversion granted under clause (c) or (d), the basic allotment and new base resulting from the conversion will be reduced to an amount equal to a kilogram-for-kilogram basis, even if such basic allotment and new base has been subsequently reallocated from the applicant to another person;

and further provided that in determining if an amount of a basic allotment has been allotted to an applicant for a period of time under clause (b), (c) or (d), the Board will treat the period of time during which the basic allotment was allotted to a producer prior to the reallocation of such basic allotment by that producer to a family corporation, a family partnership, or a member of that producer's immediate family as if such basic allotment had been allotted to the applicant.

The applicant will be required to give to the Board a written undertaking, in a form satisfactory to the Board, that the applicant will not apply

- (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 X,
- (iii) for the approval of an association of the registered producer with another registered producer pursuant to Part XI,
- (iv) for the reallocation of the quotas and allotments allotted to the registered producer pursuant to Part XII, or
- (v) to relocate the facilities of the registered producer under section 76,

for a minimum of five years following such waiver unless the applicant has first received the approval of the Manitoba Council to do so.

In dealing with the conversion of Breeder Quota to another category of turkey, or in reducing a basic allotment and new base under clause (h), the new base of a producer receiving an allotment or incurring a reduction shall be increased or reduced by the same number of kilograms that the basic allotment of such producer is increased or reduced.

M.R. 113/2016

PART V

EXCESS MARKETINGS AND UNDER MARKETINGS

Reduction of market allotment for excess marketings

24 Where a producer has marketed turkey of a category during a marketing year in excess of the market allotment for that category allotted to that producer for that marketing year, the market allotment allotted to that producer for that category shall be reduced by a quantity of turkey equal to such excess in the subsequent marketing year; provided however that if such producer has marketed turkey of a category in excess of the market allotments allotted to such producer for that category for two consecutive marketing years, such producer's market allotment for that category in the subsequent marketing year shall be reduced by a quantity of turkey equal to two times the excess marketed in the second such marketing year.

Reduction of periodic market allotment for excess marketings

25 Where a producer has marketed turkey of a category in excess of the periodic market allotment for that category allotted to that producer for any marketing period, the periodic market allotment allotted to that producer for that category in a subsequent marketing period may be reduced by a quantity of turkey equal to such excess.

Reduction of basic allotment and new base for under marketings

26 Where a producer fails to market a total quantity of any category of turkey equal to the market allotment of that producer for that category in any marketing year, the basic allotment of that producer shall be reduced to the greatest number of actual kilograms of turkey of that category marketed by that producer in that marketing year, and the new base of that producer shall be reduced by an amount equal to the reduction in basic allotment, provided that such reduction will not apply to any producer

(a) where the Board is satisfied that such producer placed a sufficient number of the appropriate turkey poults that ought to have enabled such producer to market such producer's full market allotment of turkey of that category;

(b) who can satisfy the Board within a reasonable period of time after the end of any marketing year that such producer was unable to market the full market allotment of turkey of that category because such producer's facility was lost due to fire or other causes beyond such producer's control, or because such producer's turkeys were subject to disease (as verified by a qualified veterinarian), or because such producer's turkeys were lost due to adverse weather conditions, or because major repairs and/or renovations to such producer's facility resulted in the temporary curtailment of production (provided an application has been received at least three months in advance of the commencement of such major repairs and/or renovations being relied upon), or because of suffocation of such producer's turkeys (verified by a veterinarian certificate), or because of a lack of replacement poults, or because of the serious illness or death of the producer; or

(c) who has otherwise obtained permission from the Board in writing to reduce such producer's marketings for a period of time, subject to such terms and conditions as the Board may establish at the time such permission is granted.

PART VI**OTHER REDUCTION OR CANCELLATION OF QUOTAS AND ALLOTMENTS****Cancellation of quota and allotments on death, winding up, etc.**

27 The Board may cancel the quotas and allotments 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 and allotments on cancellation of registration

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

Cancellation of quotas and allotments for failure to market

29 The Board may cancel the quotas and allotments allotted to a registered producer if the producer ceases to be actively engaged in the marketing of turkey for two consecutive marketing years.

Other reduction or cancellation of a quota and an allotment

30 The Board may suspend, reduce or cancel, either on a temporary basis or on a permanent basis, a quota and an allotment

- (a) as set out in this Order;
- (b) where a producer has failed to comply with any Regulation, Order, or directives of the Board;
- (c) 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;
- (d) where a producer has entered into a contract or agreement that would
 - (i) deprive such producer of that producer's right to the proceeds from the marketing of turkeys raised by such producer,
 - (ii) deprive such producer of that producer's right to a payment or an entitlement to a payment or an anticipated payment from the Retirement and Basic Allotment Reallocation System to another person without the prior written consent of the Board,
 - (iii) require such producer to purchase a product or a service in connection with the marketing of turkeys produced by that producer, or
 - (iv) obligate such producer with respect to the marketing of turkeys produced by that producer in connection with the acquisition of a product or a service by that producer;
- (e) where the Board has determined that a producer has failed to comply with the On-Farm Food Safety Assurance Program; or
- (f) if the Board has reasonable grounds for believing that such action is in the interests of Manitoba producers, consumers, or the turkey industry.

PART VII**OWNERSHIP OF QUOTAS****Quotas belong to board**

31 Quotas belong to the Board.

Quota non-transferable by producer

32 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.

Certain payments and entitlements non-transferable

33 Without the prior written consent of the Board, a person must not assign or offer to assign to another person

- (a) a payment, anticipated payment or entitlement to a payment from the retirement and basic allotment reallocation system; or
- (b) a payment, anticipated payment or entitlement to a payment from the retirement and basic allotment (breeder/mature) reallocation system.

M.R. 112/2016

PART VIII**PROHIBITIONS****Production prohibited without a production quota**

34 No person shall raise or keep a turkey of any category unless a production quota has been allotted to such person in respect of that category or a temporary production permit has been issued to such producer permitting such production.

M.R. 68/2011

No excess production

35 No producer shall produce a number of turkeys of any category in a marketing period in excess of the production quota allotted to such person for that category in that marketing period or in excess of the temporary production permit issued to such producer permitting such production.

M.R. 68/2011

No marketings without a market allotment or temporary market allotment permit

36 No producer shall market a turkey of any category in intraprovincial trade unless a market allotment has been allotted to such producer in respect of that category, or a Temporary Market Allotment Permit has been issued to such producer permitting such marketing.

No marketings outside of marketing period

37 No producer shall market a turkey of any category except during the marketing period for that category established by the Board for that producer.

37.1 [Repealed]

M.R. 166/2010; 113/2016

No excess marketings

38 No producer shall market a turkey of any category in intraprovincial trade in any marketing period in excess of the market allotment allotted to such producer for that category in that marketing period, or in excess of such producer's periodic market allotment for that category in any period specified by the Board, or in excess of the Temporary Market Allotment Permit issued to that producer for that category, except as directed by the Board.

Production limited to specified facilities

39 No person shall raise or keep a turkey except in or on a facility that has been specified on a Certificate of Production Premises issued to such person by the Board for such purpose.

Marketing limited to specified facilities

40 No person shall market a turkey unless such turkey was raised and kept by that person in or on the facility specified on a Certificate of Production Premises issued to such person by the Board.

PART IX

MISCELLANEOUS

Unacceptable quality

41 Nothing in this Order requires the Board to include, in calculating the marketings of a producer, any turkey which is not of an acceptable market quality.

Acquisition of interests in excess of maximum allotment prohibited

42 Notwithstanding anything herein contained, but subject to sections 43 and 44, the Board will take appropriate action to prevent a person from acquiring control of or acquiring a direct or indirect interest in allotments or quotas which aggregate in excess of maximum allotment.

Exception for grandfathered operations in excess of maximum allotment

43(1) Notwithstanding section 42, the Board may

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

(b) suspend the provisions of section 48 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 the beneficial or legal ownership to such proposed new owner.

Exception for shareholders

43(2) Notwithstanding section 42, the Board may approve a person having a direct or indirect interest in allotments or quotas which aggregate in excess of maximum allotment by deeming a shareholder to have a direct or indirect interest in allotments or quotas equal to the allotments or quotas allotted to a registered producer which is a corporation multiplied by the percentage of voting shares issued to that shareholder.

Exception for financial assistance to children

44 Notwithstanding section 42, 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 turkey production business of the child or children will be completely separate from and independent of the turkey 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 returns as separate entities); and

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

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

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

45 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 allotments or 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 an allotment or quota, particulars of all contemplated or proposed future transactions which may involve

(i) a subsequent reallocation of an allotment or quota,

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

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

PART X

CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

Special definitions

46 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. 18/2013

Transfers by a substantial holder

47(1) In the event all or part of the beneficial or legal ownership of an interest of a substantial holder 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 quotas and allotments 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.

47(2) The registered producer and the parties to the transfer 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 Basic Allotment Reallocation Program;

(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 reallocation of the quotas and allotments allotted to the registered producer pursuant to Part XII; or

(e) to relocate the facilities of the registered producer under section 76;

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

Grounds for non-waiver

48 Subject to section 43, the provisions of section 47 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 allotments which aggregate in excess of maximum allotment.

Bankruptcy or receivership of a controlling party

49 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 and allotments of such registered producer unless the registered producer 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

50 In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration or Certificate is false or misleading, or that any conditions established by the Board in waiving the provisions of section 47 or section 49 have not been met by the parties, the Board may cancel or reduce the quota and allotment of the registered producer whether or not the provisions of section 47 or section 49 have been previously waived by the Board.

Reduction of requirements re certain transfers

51 The Board may establish policies from time to time reducing its requirements under section 47

1. 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;
2. with respect to the transfer of shares of a corporation that is a registered producer
 - (a) from an individual to a member of that individual's immediate family, or

(b) 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,

(c) from a shareholder of the corporation (the "departing shareholder") to another shareholder of the corporation (the "continuing shareholder") provided that

(i) the continuing shareholder is the legal and beneficial owner of at least $66\frac{2}{3}\%$ of the issued voting shares of the corporation prior to the proposed transfer, or

(ii) the shares being transferred by the departing shareholder represent 50% or less of the total issued voting shares of the corporation, and the shares being acquired by the continuing shareholder do not represent more issued voting shares of the corporation than are already held by the continuing shareholder,

and further provided this clause (c) does not apply unless

(A) the continuing shareholder and the departing shareholder have each held such shares for a minimum period of five years prior to the date of the proposed transfer, and

(B) the Board has obtained the approval of the Manitoba Council to waive the requirements under section 47 without the necessity for the applicants to submit to the Board information relating to the consideration paid and received with respect to the proposed transfer.

For the purpose of this clause (c) the voting shares of the corporation must include a pro rata right, with all other voting shares issued by the corporation, to any and all dividends declared by the corporation and to a pro rata share of the assets of the corporation upon winding up of the corporation;

3. with respect to a change in the beneficial or legal ownership of an interest in a partnership that is a registered producer

(a) where the legal or beneficial ownership of an interest of such partnership is transferred to by an individual to a member of that individual's immediate family, or

(b) where a partnership interest is transferred from a partner of the partnership (the "departing partner") to another partner of the partnership (the "continuing partner") provided that

(i) the partnership interest of the continuing partner immediately prior to the transfer entitles the continuing partner to at least $\frac{2}{3}$ of the profits of the partnership and makes the continuing partner responsible for at least $\frac{2}{3}$ of the losses of the partnership, or

(ii) the partnership interest of the departing partner being transferred represents 50% or less of the entitlement of the partners to the profits of the partnership and 50% or less of the responsibilities of the partners for losses of the partnership, and the partnership interest being acquired by the continuing partner does not represent a larger entitlement to the profits of the partnership or a larger responsibility for the losses of the partnership than the partnership interest possessed by the continuing partner immediately prior to the transfer,

and further provided this clause (b) does not apply unless

(A) the continuing partner and the departing partner of each held such partnership interests for a minimum period of five years prior to the date of the proposed transfer, and

(B) the Board has obtained the approval of the Manitoba Council to waive the requirements under section 47 without the necessity for the applicants to submit to the Board information relating to the consideration paid and received with respect to the proposed transfer.

M.R. 18/2013

PART XI

ASSOCIATION OF REGISTERED PRODUCERS

Deemed association

52 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;
- (b) one person is an entity of which the other person is a partner;
- (c) one person is an entity that is controlled, directly or indirectly, by the other person;
- (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;
- (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.

A person will not be deemed to be associated with another person merely as a result of such persons being members of a cooperative provided the cooperative has at least ten (10) active members.

Sharing between producers

53 Notwithstanding section 26 of the Plan, the following activities by registered producers will not in themselves result in the type of treatment set out in that section:

- (a) the ownership or use of equipment not normally utilized on a day-to-day basis in a facility;
- (b) the ownership or use of a brooding facility to raise turkeys under the age of eight weeks;
- (c) the investment in or ownership of feed manufacturing facilities 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 turkeys.

Association of registered producers

54(1) In the event that a registered producer becomes associated with another registered producer, the Board may cancel or reduce the quotas and allotments 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.

54(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 Basic Allotment Reallocation Program;
- (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 reallocation of the quotas and allotments allotted to the registered producer pursuant to Part XII; or
- (e) to relocate the facilities of the registered producer under section 76;

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

Grounds for non-waiver

55 The provisions of section 54 will not be waived by the 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 allotments or quotas which aggregate in excess of maximum allotment.

False or misleading information

56 In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration or Certificate is false or misleading, or that any conditions established by the Board in waiving the provisions of section 54 have not been met by the parties, the Board may cancel or reduce the quotas and allotments of the registered producers whether or not the provisions of section 54 have been previously waived by the Board.

PART XII

REALLOTMENT OF QUOTA AND ALLOTMENT

Complete farm sales

57 In the event a registered producer sells the land, buildings, structures, and equipment used by such producer in producing turkeys, the Board may reallocate the quotas and allotments used in association with such facility to any purchaser provided it is satisfied that no value has been attributed to such quotas and allotments and that no more than fair market value has been paid for such facility.

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

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board confirming the sale and 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 cancel or reduce the quotas and allotments in question, whether or not such quotas and allotments were reallocated.

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 Basic Allotment Reallocation Program;
- (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 reallocation of the quotas and allotments allotted to the registered producer pursuant to Part XII; or

(e) to relocate the facilities of the registered producer under section 76;

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

Sale of moveable buildings and equipment

58(1) In the event a registered producer sells a building used by such producer in producing turkeys, the Board may reallocate the quotas and allotments used in association with such building (and any equipment included in such sale) to such purchaser provided it is satisfied that

(a) the condition of such building allows for the moving of the building to a new foundation on property owned by the purchaser;

(b) the condition of such building and any such equipment included in such sale is such that same is capable of being used for a minimum period of five years after relocation and installation on the new foundation;

(c) no more than fair market value has been paid for such building and equipment; and

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

58(2) In applying this section the Board may require an appraisal of the building and equipment by a qualified appraiser to ascertain the fair market value of the building and such equipment using an appraisal method or methods approved by the Manitoba Council, such costs to be borne by the vendor. In ascertaining whether no more than fair market value has been paid for the building and such equipment, the costs of removing such building and equipment and relocating same on a new foundation on property owned by the purchaser shall be borne by the purchaser and shall be deducted from the appraised value of such building and equipment.

58(3) The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board confirming the sale and purchase consideration (both direct and indirect) and any of the matters set out above. 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 cancel or reduce the quotas and allotments in question, whether or not such quotas and allotments were reallocated.

58(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 Basic Allotment Reallocation Program;

(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 reallocation of the quotas and allotments allotted to the registered producer pursuant to Part XII; or

(e) to relocate the facilities of the registered producer under section 76;

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

58(5) The purchaser will be required to give to the Board a written undertaking, in a form satisfactory to the Board, verifying that the purchaser will use such building and equipment in connection with the reallocated quotas and allotments for the balance of the estimated useful life of such building and equipment after relocation and installation of such building and equipment on such new foundation.

Lease of complete farm

59 In the event a registered producer leases or licenses the land, buildings, structures, and equipment used by such producer in producing turkeys, for a term not to exceed two years in length, the Board may temporarily reallocate the quotas and allotments used in association with such land, buildings, structures, 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 quotas and allotments and that no more than fair market rental for such facility is being paid under the lease or license arrangement directly or indirectly for the lease of such facility, or any other assets included in such lease (including any transaction with respect to turkeys).

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 cost to be borne by the lessor.

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 event that the Board has reasonable grounds for believing that any information provided in a Statutory Declaration or any requested Certificate is false or misleading, the Board may reduce or cancel the quotas and allotments in question, whether or not the quotas and allotments were temporarily reallocated.

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

Temporary suspension and reallocation

60 The Board may, upon application in a form acceptable to the Board, temporarily reduce the market allotment allotted to an applicant and simultaneously temporarily allot an equal market allotment to an applicant in the manner outlined in this section.

The applicants shall each be required to provide a Statutory Declaration in a form acceptable to the Board providing such particulars as may be required by the Board. Any agreement or understanding between the applicants shall be appended to such Statutory Declarations.

The Board may grant such application and temporarily suspend the market allotment of an applicant (the "current producer") and temporarily allot a market allotment to an applicant (the "recipient").

In the event that the Board has reasonable grounds for believing that any information provided in a Statutory Declaration is false or misleading, the Board may cancel or reduce the quotas and allotments of the applicants.

At the end of any temporary suspension and temporary allotment under this section, the temporary suspension and the temporary allotment shall automatically be cancelled by the Board. No extensions or renewals will be granted under this section involving the same current producer and the same recipient as a recipient in a successive marketing year.

The Board will not consider an application under this section:

- (a) for any period of time which encompasses more than one marketing year;
- (b) where the current producer was involved in an approved application under this section in the previous marketing year, except in the event of an unforeseen circumstance acceptable to the Board;
- (c) for a market allotment in excess of 10,000 kilograms of turkey;
- (d) to a recipient unless that recipient is a registered producer;
- (e) to a recipient if, as a result of granting such application, the recipient would be entitled to be allotted market allotments during the marketing year as a result of applications under this section aggregating in excess of 10,000 kilograms of turkey; and
- (f) unless the Board is satisfied that the recipient has the ability to obtain sufficient poult to allow the recipient to market an amount of turkey equal to such temporary market allotment prior to April 30 of that marketing year, or unless the Board is satisfied that the recipient will be able to market such additional temporary market allotment from an existing flock prior to April 30 of that marketing year.

The Board will not approve an application under this section:

(a) unless satisfactory arrangements have been made with the Board with respect to the payment of any levies and penalties in connection with the marketings and any overmarketings by the recipient; or

(b) where the result of granting such an application would result in a registered producer marketing in excess of 600,000 kilograms of turkey in a marketing year.

M.R. 39/2012

Bankruptcy or receivership of a registered producer

61 Notwithstanding clause 30(c), 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 and allotments 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

62 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 a deceased registered producer, reallocate the quotas and allotments allotted to such producer to the heir or designated member of such registered producer's immediate family

(a) who becomes the owner of the turkey production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for keeping turkeys; or

(b) who becomes the owner of the turkey 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;

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

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

63 Where an individual who is a registered producer enters into a partnership with a member of such registered producer's immediate family, the Board may, on written request of such registered producer, reallocate the quotas and allotments allotted to such registered producer to such partnership

(a) which becomes the owner of the turkey production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for producing turkeys; or

(b) which becomes the owner of the turkey 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;

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

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

64 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, reallocate the quotas and allotments allotted to such registered producer to such corporation or subsidiary

(a) which becomes the owner of the turkey production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for producing turkeys; or

(b) which becomes the owner of the turkey 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;

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

Partial and complete reallocation of quota to related persons

65(1) The following definitions apply in this section,

"applicant" means a registered producer who make an application to re-allocate all or a portion of the registered producer's quotas and allotments allotted to such applicant 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 re-allotted all or a portion of a registered producer's quotas and allotments allotted to such applicant as the result of an application under this section.

65(2) The Board may, upon application of a registered producer in writing, reallocate all or a portion of the quotas and allotments allotted to such applicant to another person who is not a registered producer 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.

65(3) The Board shall not reallocate quotas or allotments to a recipient under subsection (2) until

(a) the recipient has established a separate facility owned and operated by the recipient in or on which to produce turkeys;

(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 or allotments.

65(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 a Statutory Declaration or an Application is false or misleading, the Board may cancel or reduce the quotas or allotments in question, whether or not such quotas or allotments were reallocated.

65(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 the Retirement and Basic Allotment Reallocation Program;

(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 reallocation of the quotas and allotments allotted to the registered producer pursuant to Part XII; or

(e) to relocate the facilities of the registered producer under section 76;

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

Consolidation of existing turkey production operations

66 Any two or more registered producers (the "applicants") may apply to the Board to have all of the quotas and allotments allotted to the applicants reallocated to a single entity (the "intended recipient") for use in connection with a single facility as a single business operation.

The intended recipient may be a corporation or a partnership which is wholly owned, both legally and beneficially, by the applicants in such manner as may be satisfactory to the Board.

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board confirming such information as may be requested by the Board. All agreements between the applicants and with the intended recipient must be appended to such Statutory Declaration.

In the event the Board has reasonable grounds for believing that any information provided in a Statutory Declaration is false or misleading, the Board may reduce or cancel the quotas in question, whether or not such quotas were reallocated.

The applicant and the intended recipient will each be required to give 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 Basic Allotment Reallocation Program;
- (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 reallocation of the quotas and allotments allotted to the registered producer pursuant to Part XII; or
- (e) to relocate the facilities of the registered producer under section 76;

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

Reallocation and maximum allotment

67 Subject to section 43, no quota or allotment 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 allotments which are equal to or aggregate in excess of maximum allotment, 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 allotments which aggregate more than maximum allotment.

PART XIII

RETIREMENT AND BASIC ALLOTMENT REALLOCATION SYSTEM

Reallocation under system

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

Acceptance of applications discretionary

69 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 Basic Allotment Reallocation System for such reasons or on such terms as they deem appropriate.

PART XIII.1

RETIREMENT AND BASIC ALLOTMENT (BREEDER/MATURE) REALLOCATION SYSTEM

Reallocation under system

69.1 Quotas allotted under the breeder/mature program of the Board may be cancelled and reallocated by the Board in accordance with the procedure set out in the retirement and basic allotment (breeder/mature) reallocation system.

M.R. 112/2016

Acceptance of applications discretionary

69.2 The designated staff referred to in the retirement and basic allotment (breeder/mature) reallocation system may, for any reason or on any terms that they consider appropriate,

(a) refuse to accept any application to participate in the system; or

(b) postpone processing an application to participate in the system.

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PART XIV

FACILITIES

Quota to be allotted for a facility

70 In allotting a quota to a registered producer, the Board may specify the facility on which the producer's turkeys, or any portion thereof, must be produced.

Production standards

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

(a) equip and operate the facility in or on which such producer produces turkeys in such a manner as to provide adequate production floor space, proper ventilation, heating, feed and water, and sanitation for the turkeys kept in such facility and in accordance with the applicable provisions of the On-Farm Food Safety Assurance Program;

(b) otherwise care for and handle turkeys 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; and

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

Certification of capacity

72 The Board may certify the capacity of the facilities of each registered producer from time to time. Such certified capacity shall only include usable production floor space (excluding service rooms).

Relocation and consolidation of facilities

73 Subject to section 76, in the event that a registered producer has been allotted a portion of the quotas and allotments 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 a portion of such quotas and allotments from one facility to another facility or facilities on a temporary or permanent basis. A registered producer may make application to relocate such producer's production facility to a new location.

Information and creditor consent for relocation

74 In conjunction with an application under section 73, a registered producer must 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 facilities used by the registered producer.

Emergency relocation

75 The Board may allow a registered producer to temporarily relocate such producer's production and marketing activities to another location in the event of an emergency even if such 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

76 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) reallocates the quotas and allotments allotted to a registered producer pursuant to Part XII;

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 Manitoba Council will a party be permitted to apply to transfer such quotas and allotments from the facility specified for use in connection with such quotas and allotments 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.

Exception from five year moratorium on applications

77 The Board may exempt a person from the provisions of section 76 with respect to a transfer or change of the nature outlined in section 51 or with respect to reallocation of quotas and allotments pursuant to sections 62 to 64 inclusive.

Examination of facilities

78 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 the interior and exterior dimensions of such producer's facility from time to time for the purpose of certification or re-certification of such facility by the Board and to examine such facility to ensure compliance of same with the provisions of section 71. Prior to such examination, the Board will give reasonable notice to such registered producer of its intention to conduct such examination.

PART XIV**APPLICATION AND EXEMPTIONS****Application of Order**

79 This Order applies only to the marketing of turkey in intraprovincial trade.

Limited non-application of Order re poult marketings

80 This Order does not apply to the marketing of turkeys less than 10 days old

(a) pursuant to the terms of a Poult Placement Permit issued to the person buying or otherwise taking delivery of such turkeys; or

(b) if less than 100 of such turkeys are marketed by a vendor to the same recipient in any year.

Partnerships and shared arrangements

81 This Order is subject to the provisions of section 26 of the Plan which presently reads as follows:

"Partnerships and shared arrangements

26(1) For the purpose of this plan and any regulation or order made by the board, if two or more persons produce or market turkeys together, the turkeys produced or marketed by one of them are deemed to be produced or marketed by the other person or persons, and such persons shall be treated as a single person for the purpose of determining the number of turkeys produced or marketed by any of them.

26(2) Subsection (1) applies when the persons produce or market the turkeys

(a) in partnership;

(b) in circumstances in which they share facilities, equipment, labour, or services provided directly or indirectly by any or all of them or by the same corporation, firm or individual, whether the sharing is familial, communal or otherwise; or

(c) in circumstances where one or more of the persons has an interest in an employment arrangement, a management arrangement or a loan or a guarantee involving one or more of the other persons, other than the lending of money to a person in the ordinary course of business by a bank, credit union, trust company, Farm Credit Canada, the Manitoba Agricultural Credit Corporation or any other commercial lender approved by the Manitoba council.

26(3) The board may direct that this section does not apply to a person or a class of persons."

Non-application of Order

82 This Order is subject to the provisions of section 27 of the Plan which presently reads as follows:

"Non-application

27 This plan, except sections 13 and 14, does not apply to a person who produces fewer than 100 turkeys in a calendar year, or to any person who has provided the board with a satisfactory undertaking that he or she will market fewer than 100 turkeys in a calendar year, provided that such person markets fewer than 100 turkeys in that year."

Application of definitions from M.R. 38/2004

82.1 Terms defined in the *Manitoba Turkey Producers Marketing Plan Regulation*, Manitoba Regulation 38/2004, and used in this Order have the same meaning in this Order as in that regulation.

M.R. 113/2016

Repeal

83 The *Turkey Quota Order*, Manitoba Regulation 258/87, is repealed.

January 30, 2008

MANITOBA TURKEY PRODUCERS:

Bill Uruski
Chair

Sheila Perry
General Manager

APPROVED

February 25, 2008

MANITOBA FARM PRODUCTS
MARKETING COUNCIL:

David Gislason
Chair

Gordon H. MacKenzie
Secretary

SCHEDULE
(SECTION 68)

RETIREMENT AND BASIC ALLOTMENT 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 31 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 33 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 Basic Allotment 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 category under the System upon payment of an administration fee pursuant to the procedure set out in this Schedule;

"bidder" means a registered producer 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 Basic Allotment Reallocation System;

"Maximum Retirement Payment" means

(a) \$5.58 for the marketing year beginning April 25, 2021 and ending April 23, 2022; or

(b) for any subsequent marketing year, the amount determined in accordance with the following formula:

$$\text{Amount} = (((A/B) \times C) - C) \times D + ((A/B) \times C)$$

In this formula,

A is the previous calendar year's Consumer Price Index for Canada ("CPI"),

B is the CPI from the further prior calendar year,

C is the previous marketing year's Maximum Retirement Payment,

D is 1.5;

"Offer" means an application to have quota units of a category under the System 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 that registered producer by the Board;

"quota unit" means a basic allotment equal to one kilogram of hen, broiler or tom turkey;

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

"Retirement and Basic Allotment 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 units of a category allotted to such registered producer cancelled in the manner provided in this Schedule, and a registered producer may request that quota units of a category be allotted to such registered producer in the manner provided in this Schedule; and

"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 basic allotment reallocation system administration

4 The Retirement and Basic Allotment 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 Basic Allotment 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 Basic Allotment Reallocation Program.

Except as provided in subsection 7(11) and section 11 and to the extent necessary to provide the notices required under subsection 7(5) 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 Basic Allotment 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 Basic Allotment 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 quota unit cancelled.

Retirement and basic allotment reallocation program procedures

7(1) Designated Staff may operate a Retirement and Basic Allotment Reallocation Program on or before the sixth regular business day of the month following the month in which notification of receipt of an Offer is given by the Board to registered producers.

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

7(3) A person must submit an Offer in accordance with this section and in the form and manner required by the Designated Staff.

7(4) An offeror must not submit an Offer unless the Offer is for at least 25,000 quota units and does not exceed the offeror's basic allotment.

7(4.1) The offeror must include the following information when submitting an Offer:

- (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 by the offeror together with an acknowledgement that such cancellation may result in a reduction of new base allocated to the offeror in an amount which may be greater than the number of quota units offered;
- (d) the category of the quota units offered;
- (e) the 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 (which retirement payment shall not exceed the Maximum Retirement Payment);
- (f) an undertaking that the Offer will not be withdrawn by the offeror once a notice has been given to a registered producer of the Offer pursuant to subsection 7(5);
- (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 acknowledgement that in the event that Bids received for a Program are less than the number of quota units offered for cancellation, the offeror may be asked whether or not the Offer should proceed at such lesser number;

(i) any application fee established by the Board for processing an Offer.

7(4.2) The Designated Staff may

(a) require an offeror to provide proof of the consent of any secured creditor of the offeror to the submission of such Offer; and

(b) reject an offer if the Designated Staff determines that the offeror will market turkey after the date for the cancellation of quota units set out in subsection 7(11) or otherwise market turkey contrary to the provisions of the *Turkey Quota Order*.

7(5) Upon receipt of an Offer in an acceptable form, the Designated Staff must provide notice to each registered producer that an Offer has been received. The notice must include the following information:

(a) the number of quota units offered for cancellation;

(b) the retirement payment per quota unit which the offeror is willing to accept upon cancellation of the quota units offered for cancellation;

(c) the Reallocation Day;

(d) any other information in relation to the Offer and the options available to the registered producer deemed appropriate by the Designated Staff.

7(6) A registered producer must submit a Bid on a Retirement and Basic Allotment Reallocation Program in the form and manner required by the Designated Staff no later than 4:00 p.m. on the last working day before the month in which the Retirement and Basic Allotment Reallocation Program is to be held. The Bid must include

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

(b) the Producer Registration Number of the bidder;

(c) the number of quota units requested for allotment;

(d) the category of the quota units requested;

(e) the administration fee which shall be equal to the retirement payment set out in the notice referred to in subsection 7(5), which the bidder is willing to pay upon allotment of the quota units requested for allotment;

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

(g) an acknowledgement 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 basic allotment exceeds maximum allotment.

7(6.1) 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 by the Board no later than 4:00 p.m. of the last working day before the month in which the Retirement and Basic Allotment 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.

Any Bid submitted by a Turkey Egg Producer must specify that in the event the Bid is successful the quota units allotted to the bidder will be allotted as a basic allotment under the Breeder/Mature Program of the Board.

7(8) A bidder may amend or withdraw their Bid by submitting a request to the Board no later than 4:00 p.m. on the last working day before the month in which the Retirement and Basic Allotment Reallocation Program is to be held. The request must

- (a) be clear and unambiguous;
- (b) be submitted in the form and manner specified by the Designated Staff, and include the bidder's name and Producer Registration Number; and
- (c) specify the Bid 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 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 allotment.

7(9) As provided in section 69 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.

All valid Bids shall be determined to be acceptable up to an amount calculated on 50% pro rata share and 50% equal share for each registered producer and set out in the notice sent to registered producers under subsection 7(5).

In the event the Bids determined to be acceptable as set out above aggregate less than the number of quota units offered for cancellation, the Designated Staff shall apportion such Shortfall amongst the bidders who submitted valid Bids for more than their initial portion calculated above and set out in the subsection 7(5) notice, apportioning among all such bidders an equal share of such Shortfall or such lesser amount as may be set out in such bidder's Bid, and such additional amounts shall be determined as acceptable.

In the event the aggregate of all quota units bid in the valid Bids determined as acceptable under this subsection is less than the number of quota units comprising the Offer (the "Excess"), the following procedure will apply:

(a) if the Excess is 60,000 quota units or more, the Designated Staff may contact the persons on the waiting list established pursuant to section 6 of this Order and offer a person, in the order such persons appear on such list, the opportunity to submit a Bid for 60,000 quota units. In the event a person contacted by the Designated Staff agrees to submit a Bid for 60,000 quota units, such Bid must be delivered to the Designated Staff in writing together with 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 to be paid by such person in connection with such Bid, which items must be received by the Board no later than 4:00 p.m. of the working day following the working day on which such person was first contacted by the Designated Staff. The Designated Staff may treat any such Bid as a valid Bid;

(b) if no person described in clause (a) submits a valid Bid, in the manner set out in clause (a), or if the Excess is less than 60,000 quota units, the Designated Staff may contact the offeror to see if the offeror is prepared to reduce the number of quota units offered for cancellation in the Offer to the number of quota units requested for reallocation in the valid Bids. Any such agreement by the offeror to reduce the number of quota units offered for cancellation must be communicated in the manner and within the period required by the Designated Staff.

The Designated Staff may aggregate offers that have identical administrative fees. If the aggregate number of quota units contained in the valid Bids determined as acceptable under this subsection exceeds the number of quota units offered for cancellation in the Offer (the "Shortfall") and the Designated Staff is in receipt of an Offer for an identical retirement allowance, the Designated Staff may allow the offeror to include their Offer in the current Program to the extent of the Shortfall, but the offeror must communicate their agreement to the Designated Staff in the manner and within the period required by the Designated Staff to participate in the Program.

7(11) Following the operation of a Retirement and Basic Allotment Reallocation Program, the Designated Staff shall report to the Board particulars of the Offer, the retirement payment requested by the offeror, 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 Basic Allotment Reallocation Program, the Board may pass a resolution to accept such results.

Following the acceptance of the results of a Retirement and Basic Allotment Reallocation Program, the Board will pass a resolution to allot quota units and to increase the new bases of the successful bidders and to cancel quota units and to reduce the new bases of the successful offeror in order to implement such results. The new base of a successful bidder (unless the successful bidder is a Turkey Egg Producer) shall be increased by a quantity equal to the number of quota units to be allotted to that successful bidder, to a maximum of 600,000 quota units; and, if such a maximum is reached by a successful bidder, the remaining new base quota units will be divided on an equal share basis among the remaining successful bidders. The new base of a successful offeror shall be reduced by a quantity equal to the new base of that offeror for the category of quota units to be cancelled, divided by the greater of the basic allotment and market allotment of that offeror for that category, multiplied by the number of quota units to be cancelled.

The cancellation of quota units allotted to a successful offeror will be effective:

(a) with respect to a portion of the quota units comprising the successful Offer determined by the Board taking into account the marketings and expected marketings of the offeror during that marketing year, the last day of the month in which the results of the Retirement and Basic Allotment Reallocation Program was accepted by the Board; and

(b) with respect to the balance of the quota units comprising the successful Offer, the last day of April after the results of a Retirement and Basic Allotment Reallocation Program was accepted by the Board.

The cancellation of the new base of a successful offeror will be effective on the last day of the month in which the results of the Retirement and Basic Allotment Reallocation Program was accepted by the Board.

The allotment of quota units to a successful bidder will be effective

(a) with respect to a portion of the quota units comprising the successful Bid determined by the Board, the first day of the month following the month in which the results of the Retirement and Basic Allotment Reallocation Program was accepted by the Board; and

(b) with respect to the balance of the quota units comprising the successful Bid, the first day of May after the results of a Retirement and Basic Allotment Reallocation Program was accepted by the Board.

The increase of the new base of a successful bidder will be effective at the same time, and in the same amounts, as the allotment of quota units to that successful bidder.

7(12) Following the Board's consideration of the results of a Retirement and Basic Allotment Reallocation Program, each participant in the Retirement and Basic Allotment Reallocation Program will be notified 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. In addition, each successful bidder will be notified of the category of the quota units allotted to such bidder.

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

Limits on bids and offers

8 An Offer which would result in the remaining basic allotment allocated to that offeror being reduced to a level below 60,000 kilograms of hen, tom and broiler turkey will be rejected by the Designated Staff. Any offeror allotted a basic allotment of 60,000 kilograms of hen, tom and broiler turkey or less must offer to cancel all such quota units to be eligible to be an offeror on the Retirement and Basic Allotment Reallocation Program.

Limitation re new producers

9 In the event a person is allotted a basic allotment and becomes a registered producer pursuant to the provisions of section 6 of this Order, such person shall not be entitled to submit an Offer which would result in the basic allotment allotted to such person being reduced below 60,000 kilograms of turkey for a minimum of five (5) years from the date of such allotment, and thereafter the general limitations set out in section 8 will continue to apply to such person.

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.

Information

11 The Board will forward to each registered producer, in a form approved by the Manitoba Council, within fifteen (15) days following Board approval, the results of the Retirement and Basic Allotment Reallocation Program.

M.R. 113/2016; 31/2021