REPEALED

Repealed by S.M. 2022, c. 7, s. 9.
Date of repeal: 20 Apr. 2022

This version was current for the period set out in the footer below.

The regulation was last amended by: M.R. 20/2009

ABROGÉ

Abrogé par L.M. 2022, c. 7, s. 9.
Date d'abrogation : 20 avril 2022

La présente version était à jour pendant la période indiquée en bas de page.

Dernière modification intégrée : R.M. 20/2009

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

Potato Quota Order*

Regulation 13/95
Registered February 7, 1995

CONTENTS

Section

PART I
INTERPRETATION

1 Definitions

PART II
QUOTA ALLOTMENT

2 Criteria for allotment of quota
3 Application for quota and increases in quota
4 Waiting list for allocation of quota

PART III
TABLE POTATOES

5 Determination of annual table quotas
6 Notice of annual table quotas
7 Changes in annual table quota between types
8 New and increased annual table quotas
9 Annual table quota not to exceed maximum quota
10 Delivery periods
11 Delivery quotas
12 Notice prior to delivery

* This order is made under the *Manitoba Vegetable Producers' Marketing Plan Regulation*, Manitoba Regulation 249/87 R, and is Order No. 1, 1995 of Peak Vegetable Sales.

13 Delivery order required
14 Deletion from delivery order list
15 Discontinuing deliveries re inferior quality
16 Resumption of accepting delivery orders
17 Adjustment of delivery quotas for market place
18 Pro-rating of table deliveries
19 Stand down of table deliveries
20 Non-quota delivery period and open delivery period
21 Termination of non-quota or open delivery period
22 Surplus to quota deliveries

PART IV
SEED POTATOES

23 Determination of annual seed quotas
24 Notice of annual seed quotas
25 Delivery order required
26 Sharing of non-specified orders
27 Marketing seed on table market
28 Other marketings of seed potatoes as table potatoes

PART V
REDUCTION OR CANCELLATION OF ANNUAL MARKETING QUOTAS

29 Force majeure and stand downs
30 Reduction of annual table quotas for undermarketing
31 Reduction of annual seed quotas for undermarketing
32 Cancellation of annual table quotas
33 Cancellation of annual seed quotas
34 Other reduction or cancellation of annual marketing quotas

PART VI
OTHER REDUCTION OR CANCELLATION OF QUOTA

35 Cancellation of quotas on death, winding up, etc.
36 Cancellation of quotas on cancellation of registration
37 Other reduction or cancellation of quota

PART VII
OWNERSHIP OF QUOTAS

38 Quotas belong to board
39 Quota non-transferable by producer

PART VIII
MARKETING PROHIBITIONS

40 No marketings without a quota
41 No marketings unless quota is for a type
42 No excess marketings of table potatoes
43 No excess marketings of seed potatoes

PART IX
GENERAL

44 Unacceptable quality
45 Effect of sharing
46 Acquisition of interests in excess of maximum quota prohibited
47 Exception for grandfathered operations in excess of maximum quota
48 Exception for financial assistance to children
49 Step-transactions prohibited

PART X
CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

50 Special definitions
51 Transfers by a substantial holder
52 Grounds for non-waiver re transfer
53 Bankruptcy or receivership of a controlling party
54 False or misleading information re transfers
55 Reduction of requirements re certain transfers

PART XI
ASSOCIATION OF REGISTERED PRODUCERS

56 Deemed association
57 Association of registered producers
58 Grounds for non-waiver re association
59 False or misleading information re association

PART XII
RE-ALLOTMENT OF QUOTA

60 Complete farm sales
61 Lease of complete farm
62 Bankruptcy or receivership of a registered producer
63 Re-allotment of quota and dispensing with financial information on death, disability or retirement
64 Re-allotment of quota and dispensing with financial information on establishment of family partnership
65 Re-allotment of quota and dispensing with financial information on establishment of a corporation
66 Partial and complete re-allotment of quota to related persons
67 Re-allotment and maximum quota

PART XII.1
RETIREMENT AND ANNUAL TABLE POTATO QUOTA REALLOCATION SYSTEM

67.1 Re-allotment under system
67.2 Acceptance of applications discretionary

PART XIII
QUOTA AND CERTIFIED LAND

68 Quota to be allotted for certified land
69 No application for change of land or buildings for five years
70 Exception from 5 year moratorium on applications
71 Examination of certified land, storage facilities and inventory

PART XIV
THE PLAN AND NON-APPLICATION

72 Non-application re direct consumer sales
73 Non-application re potatoes of small potato producer
74 Deliveries by small potato producers
75 Direct pricing sales
76 Further non-application
77 Repeal

SCHEDULE A

PART I

INTERPRETATION

Definitions

1 In this Order

"**annual marketing quota**" means either an annual table quota or the annual seed quota, as the context may require;

"**annual seed quota**" means the number of 75 pound bags of seed potatoes that a registered producer is authorized to market during a crop year;

"**annual table quota**" means the number of 75 pound bags of a type of table potato that a registered producer is authorized to market during a crop year;

"**category**" means:

(a) table potatoes, and

(b) seed potatoes;

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

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

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

"**maximum quota**" means 100,000 – 75 pound bags of potatoes in a crop year;

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

"**non-specified seed order**" means any order for seed potato received by this Board or by a registered table potato producer other than a specified seed order;

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

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

"**registered producer**" means a registered table potato producer or a registered seed potato producer, or both as the context may require;

"**specified seed order**" means an order received by this Board (or by a registered table potato producer) from a purchaser for seed potatoes grown by a specific registered seed potato producer;

"**table potatoes**" includes the following types:

(a) russet type potatoes, and

(b) red, white and yellow type potatoes.

M.R. 2/2007

PART II

QUOTA ALLOTMENT

Criteria for allotment of quota

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

Application for quota and increases in quota

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

M.R. 130/95

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

M.R. 130/95

Waiting list for allocation of quota

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

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

M.R. 85/95

PART III

TABLE POTATOES

Determination of annual table quotas

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

Notice of annual table quotas

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

M.R. 85/95

Changes in annual table quota between types

7 The Board may, upon application of a registered table potato producer, allot to that producer a new or increased annual table quota for one type of table potato, and may reduce the annual table quota allotted to that producer for a different type of table potato by an equal amount.

New and increased annual table quotas

8 Prior to March 1st in each calendar year, this Board will analyze the potential production for each type of table potato by registered table potato producers and the potential markets available for Manitoba produced table potatoes of each type. If after allowing for possible yield variations, the Board expects that the aggregate potential production in Manitoba for any type of table potato will not meet potential markets available for such type of table potato (herein called the "Shortfall"), the Board may allot additional annual marketing quotas for that type of table potato equal to the Shortfall on the following priority:

(a) by increasing the annual table quota for that type of table potato allotted to registered producers who have been allotted annual table quotas aggregating less than 6,000 - 75 pound bags of all types of table potatoes and who have applied in writing for an increase in their annual table quota of that type during the application period commencing December 1st and terminating December 31st of the previous calendar year, to bring the annual table quotas allotted to each such registered producer up to a level in aggregate of no more than 6,000 - 75 pound bags of table potatoes;

(b) by allotting up to 40% of the balance of the Shortfall to applicants who have not previously been allotted an annual table quota and who have applied for registration and an annual table quota. Such annual table quotas will be allotted to applicants who have met all of the criteria of the Board in the order of priority determined in accordance with section 4. No person shall be entitled to be allotted an annual table quota in excess of 6,000 - 75 pound bags of table potatoes under this provision; and

(c) by allotting the balance of the Shortfall equally among each registered table potato producer who marketed table potatoes of that type in the previous crop year and who applied in writing for increases in the annual table quota allotted to such producer of that type during the application period commencing December 1st and terminating December 31st of the previous calendar year. No table potato producer shall be entitled to an increase in the annual table quota allotted to such producer under this provision unless such producer marketed table potatoes in the preceding crop year equal to at least 85% of the aggregate annual table quotas allotted to such producer for such crop year (catastrophes excepted).

M.R. 85/95; 46/97

Annual table quota not to exceed maximum quota

9 Notwithstanding anything set out in section 8, the aggregate annual table quotas allotted to a registered table potato producer shall not exceed maximum quota, provided that if a registered producer

(a) has, prior to the calendar year 1982, been effectively allotted annual table quotas aggregating in excess of maximum quota; or

(b) has, as permitted pursuant to section 47 of this Order, been effectively re-allotted annual table quotas aggregating in excess of maximum quota, or has been permitted to acquire an interest in a substantial holder in an entity that has been effectively allotted annual table quotas aggregating in excess of maximum quota;

this limitation shall not apply to such registered producer.

Delivery periods

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

Delivery quotas

11 Delivery quotas for each type of table potato will be allotted to registered table potato producers based on the following scale:

(a) registered table potato producers who have been allotted annual table quotas aggregating 3,000 - 75 pound bags of table potatoes or less shall be allotted a delivery quota for each type of table potato for each delivery period equal to 1/5 of the annual table quota of that type allotted to that producer; and

(b) registered producers who have been allotted annual table quotas aggregating more than 3,000 - 75 pound bags of table potatoes shall be allotted a delivery quota for each type of table potato for each delivery period of 200 - 75 pound bags plus 1/8 of the first 10,000 - 75 pound bags of the annual table quota for that type allotted to that producer, plus 1/11 of the balance of the annual table quota for that type allotted to that producer.

Notice prior to delivery

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

Delivery order required

13 Each registered table potato producer must obtain a delivery order or delivery order number from the Board office before delivering table potatoes to the Board.

Deletion from delivery order list

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

M.R. 130/95

Discontinuing deliveries re inferior quality

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

Resumption of accepting delivery orders

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

Adjustment of delivery quotas for market place

17 In the event that changes in market requirements (such as maturity and size demand) occur within a delivery period for a type of table potato, delivery quotas will be so adjusted as to allow each producer on the delivery order list for that type of table potato the opportunity to market potatoes of both old and new market requirements up to the share of the delivery quota of that producer up to that point.

Pro-rating of table deliveries

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

Stand down of table deliveries

19 After November 1st in a crop year a registered table potato producer may elect to cease deliveries and temporarily stand down for a term not exceeding one month. With the prior approval of the Board, and subject to timing approved by the Board, a producer may be permitted to recover the delivery quota thus stood down over the next 2 delivery periods provided such producer has given this Board at least 2 weeks prior notice in writing of such intention.

Non-quota delivery period and open delivery period

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

Termination of non-quota or open delivery period

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

Surplus to quota deliveries

22 Once all registered table potato producers have been given an opportunity to deliver a quantity of potatoes of a type equal to the aggregate annual marketing quotas allotted to them for that type, the Board may declare a non-quota delivery period for that type of table potato. During such non-quota delivery period the Board may give marketing priority to each such registered table potato producer of up to 5,000 - 75 pound bags or 10% of the annual table quota of that producer for that type, whichever shall be greater.

PART IV

SEED POTATOES

Determination of annual seed quotas

23 Subject to the provisions of the Plan, the Regulations and this Order the annual seed quota allotted to a registered seed potato producer shall be equal to an annual seed quota allotted to such producer in the preceding crop year.

Notice of annual seed quotas

24 The Board will advise each registered seed potato producer of that producer's annual seed quota on or about March 1st in each year and will advise such producer of any changes in such quotas from time to time.

M.R. 130/95

Delivery order required

25 Each registered seed potato producer must obtain a delivery order or delivery order number from the Board office before delivering seed potatoes.

Sharing of non-specified orders

26 The Board may place non-specified orders for seed potatoes with registered seed potato producers in proportion to the annual seed quota allotted to such registered seed potato producers or on such other basis as the Board may deem appropriate.

Marketing seed on table market

27 In the event a registered seed potato producer has been unable to market seed potatoes produced by such producer after April 30th in any crop year, and provided that such seed potatoes are an acceptable quality for the table market, the Board may permit such producer to sell a volume of potatoes equal to unmarketed portion of such producer's annual seed quota on the table market as if such producer had been allotted annual table quota.

Other marketings of seed potatoes as table potatoes

28 In the event a registered seed potato producer's seed potatoes are rejected or partially rejected for certification by the Plant Quarantine Division, Agriculture Canada, such producer may be permitted, upon application to this Board and provided such potatoes are of an acceptable quality, to transfer annual seed quota allotted to that producer to annual table quota for the then current crop year only in the proportion that the rejected seed potatoes are to annual seed quota of that annual table quota of that producer. Sales made as a result of such transfer will be counted as seed marketing for the purpose of section 31.

PART V

REDUCTION OR CANCELLATION OF ANNUAL MARKETING QUOTAS

Force majeure and stand downs

29 This Board may waive application of any provision of this Part if prior approval of this Board has been obtained to reduce or cease marketing regulated product for a period of time, or if, in this Board's opinion, a producer's failure to market or reduction in marketings was beyond the control of that producer and if such producer advised this Board in writing, in a form prescribed by the Board for such purpose, of the nature of such circumstances. In the event the circumstances beyond the control of a producer were related to the production or harvesting of regulated product, such notification must be filed with this Board prior to December 31st of the year in which such regulated product was grown. In the event the circumstances arose following the harvest of such regulated product, such notification must be filed with this Board prior to June 30th of the year following the year in which such regulated product was harvested.

M.R. 130/95

Reduction of annual table quotas for undermarketing

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

M.R. 130/95

Reduction of annual seed quotas for undermarketing

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

M.R. 130/95

Cancellation of annual table quotas

32 Where a registered table potato producer has not marketed table potatoes of a type to or through this Board for a period of 2 consecutive crop years, the annual table quota allotted to that producer for that type shall be automatically cancelled.

Cancellation of annual seed quotas

33 Where a registered seed potato producer has not marketed seed potatoes to or through the Board for a period of 2 consecutive crop years, annual seed quota allotted to that producer shall be automatically cancelled.

Other reduction or cancellation of annual marketing quotas

34 In the event a registered producer is allotted new or increased annual table quota or annual seed quota in a crop year, and, in the opinion of the Board, fails to produce sufficient potatoes of the category or type in that crop year to enable such producer to market an amount of that category or type of potato equal to the annual table quota allotted to that producer of that type, or equal to the annual seed quota allotted to that producer in that crop year, such new or increased portion of the annual table quota or annual seed quota allotted to that producer may be cancelled by the Board.

PART VI

OTHER REDUCTION OR CANCELLATION OF QUOTA

Cancellation of quotas on death, winding up, etc.

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

Cancellation of quotas on cancellation of registration

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

Other reduction or cancellation of quota

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

(a) as set out in this Order; or

(b) where a producer has failed to comply with any regulation, order, or directive of the Board; or

(c) where a producer becomes insolvent or bankrupt or applies for a receiving order or has such an order made against it or takes the benefit from any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to the potatoes grown and harvested by, or the land or facilities used by a producer; or

(d) where a producer has entered into a contract or agreement that would

(i) deprive such producer of such producer's right to the proceeds from the marketing of potatoes grown and harvested by such producer, or

(ii) require such producer to purchase a product or a service in connection with the marketing of potatoes grown or harvested by such producer, or

(iii) obligate such producer with respect to the marketing of potatoes grown or harvested by such producer in connection with the acquisition of a product or a service by such producer; or

(e) if the Board has reasonable grounds for believing that such action is in the interests of Manitoba producers, consumers, or the potato industry.

PART VII

OWNERSHIP OF QUOTAS

Quotas belong to board

38 Annual marketing quotas belong to the Board.

Quota non-transferable by producer

39 No person shall

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

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

PART VIII

MARKETING PROHIBITIONS

No marketings without a quota

40 Unless otherwise directed by this Board, no person who grows or harvests potatoes shall market a potato of a category unless an annual marketing quota has been allotted to such person in respect of that category of potatoes.

No marketings unless quota is for a type

41 Unless otherwise directed by this Board, no person who grows or harvests potatoes shall market a table potato of a type unless an annual table quota has been allotted to such person in respect of that type of table potato.

No excess marketings of table potatoes

42 Unless otherwise directed by this Board, no registered table potato producer shall market a table potato of a type

(a) in a crop year in excess of the annual table quota allotted to such producer for that type for that crop year; or

(b) in a delivery period in excess of the delivery quota allotted to that producer for that type for that delivery period.

No excess marketings of seed potatoes

43 Unless otherwise directed by this Board, no registered seed potato producer shall market a seed potato in a crop year in excess of the annual seed quota allotted to such producer for that crop year.

PART IX

GENERAL

Unacceptable quality

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

Effect of sharing

45(1) Where two or more persons grow or harvest potatoes in partnership, or in circumstances where there is a sharing by them whether familial, communal, or otherwise, of the land, equipment, labour or services provided directly or indirectly by all or any of them, or pursuant to a contract jointly or severally with the same corporation, firm, or individual, for the purpose of this Order, the potatoes grown, harvested or marketed by one of those persons may be treated by the Board as having been grown, harvested or marketed by the other or others, and the land on which one of those persons grows or harvests potatoes may be treated by the Board as being the land on which the other or others grow or harvest potatoes.

M.R. 113/2008

45(2) Notwithstanding subsection (1), the following activities by registered producers will not in themselves result in the type of treatment set out in subsection (1):

(a) the ownership or use of equipment not normally utilized on a day-to-day basis in producing or marketing the regulated product;

(b) the ownership or use of a facility to clean, grade or store a regulated product;

(c) the investment in or ownership of handling or transportation equipment or businesses;

(d) the formation of a purchasing group by which a registered producer may acquire supplies or equipment for use in the production or marketing of regulated product.

M.R. 113/2008

Acquisitions of interests in excess of maximum quota prohibited

46 Notwithstanding anything contained in this Order, but subject to sections 47 and 48, the Board will take appropriate action to prevent any person from acquiring control of or acquiring a direct or indirect interest in quotas in excess of maximum quota.

Exception for grandfathered operations in excess of maximum quota

47 Notwithstanding section 46, the Board may:

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

(b) suspend the provisions of section 51 if the proposed new beneficial or legal owner does not have a direct or indirect interest in a registered producer at the time of the transfer of beneficial or legal ownership to such proposed new beneficial or legal owner.

Exception for financial assistance to children

48 Notwithstanding section 46, the Board may approve the provision of financial assistance by a registered producer to one or more children of the registered producer, or of a shareholder of a registered producer, or of a partner of a registered producer, for the purpose of enabling such child or children to acquire land and facilities, and to become a registered producer. Any such approval will be subject to the applicants' satisfying the Board that

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

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

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

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

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

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

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

(i) a subsequent re-allotment of a quota, or

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

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

PART X

CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

Special definitions
50 In this Part,

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

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

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

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

"**transfer**" includes a sale, purchase, mortgage, declaration of trust, or change in legal or beneficial rights.

Transfers by a substantial holder

51(1) In the event all or part of the beneficial or legal ownership of an interest in a substantial holder in an entity that is a registered producer is transferred by the legal or beneficial owner of such interest, the Board may cancel or reduce the quotas of such registered producer unless the parties to such transfer have requested in writing that the Board waive this provision and have each provided the Board, by Statutory Declaration and Certificate in a form acceptable to the Board, with full particulars of the proposed transfer, and any other information with respect to the assets and liabilities of the entity at the effective date of such transfer, and the Board has in its discretion waived this provision either conditionally or unconditionally.

M.R. 20/2009

51(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 Annual Table Potato Quota Reallocation System;

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

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

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

(e) to change the certified land or buildings specified by the Board for use by the registered producer to other land or buildings pursuant to section 69;

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

M.R. 20/2009

Grounds for non-waiver re transfer

52 Subject to section 47, the provisions of section 51 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 quota.

Bankruptcy or receivership of a controlling party

53 In the event a controlling party in an entity that is a registered producer becomes bankrupt or applies for a receiving order or has a receiving order made against it or takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to any interest of the controlling party in such registered producer, the Board may cancel or reduce the quotas of such registered producer unless the registered producer or the trustee or receiver requests in writing that the Board waive this provision and provides the Board, by Statutory Declaration and Certificate in a form acceptable to the Board, with full particulars of such happening and the Board has in its discretion waived this provision either conditionally or unconditionally, provided however that the Board will

only waive such provision on a temporary basis, and on terms and conditions, in order to allow the Trustee in Bankruptcy or Receiver reasonable time to dispose of such interest in the controlling party.

False or misleading information re transfers

54 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 51 or section 53 have not been met by the parties, the Board may cancel or reduce the quota of the registered producer whether or not the provisions of section 51 or section 53 have been previously waived by the Board.

Reduction of requirements re certain transfers

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

(a) with respect to the transfer of shares of a corporation

(i) from an individual to a member of such individual's immediate family, or

(ii) which is and after such transfer continues to be a family corporation unless 10% or more of the total outstanding shares of that class of the corporation are transferred, or

(iii) listed on a public stock exchange unless 10% or more of the total outstanding shares of that class of the corporation are transferred, provided that this clause does not apply in respect of a series of transfers of shares within a period of 18 months by or to any one person that in the aggregate total 10% or more of the outstanding shares of that class of the corporation; and

(b) with respect to a change in the beneficial or legal ownership of an interest in a partnership that is a registered producer where the legal or beneficial ownership of an interest in such partnership is transferred from an individual to a member of such individual's immediate family; and

(c) with respect to a change in the membership of a Hutterite Colony where that Hutterite Colony is a registered producer or is the sole legal and the sole beneficial owner of all of the issued shares of a corporation that is a registered producer.

PART XI

ASSOCIATION OF REGISTERED PRODUCERS

Deemed association

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

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

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

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

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

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

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

Association of registered producers

57(1) In the event that a registered producer becomes associated with another registered producer, the Board may cancel or reduce the quotas of such registered producers unless the registered producers have requested in writing that the Board waive this provision and have each provided the Board, by Statutory Declaration and Certificate, with full particulars of all persons having a direct or indirect interest in such registered producers and the Board has in its discretion waived this provision either conditionally or unconditionally.

M.R. 20/2009

57(2) The registered producers will each be required to provide to the Board a written undertaking, in a form satisfactory to the Board, stating that such party will not apply

(a) for a retirement payment under the Retirement and Annual Table Potato Quota Reallocation System;

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

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

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

(e) to change the certified land or buildings specified by the Board for use by the registered producer to other land or buildings pursuant to section 69;

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

M.R. 20/2009

Grounds for non-waiver re association

58 The provisions of section 57 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 quotas which aggregate in excess of maximum quota.

False or misleading information re association

59 In the event that the Board has reasonable grounds for believing that any information provided to it by the Statutory Declaration or Certificate is false or misleading, or that any conditions established by the Board in waiving the provisions of section 57 have not been met by the parties, the Board may cancel or reduce the quotas of the registered producers whether or not the provisions of section 57 have been previously waived by the Board.

PART XII

RE-ALLOTMENT OF QUOTA

Complete farm sales

60(1) In the event a registered producer sells the land, buildings, and equipment used by such producer in growing, harvesting and marketing potatoes, the Board may re-allot the quotas used in association with such assets to any purchaser provided it is satisfied that no value has been attributed to such quotas and that no more than fair market value has been paid for such assets.

M.R. 20/2009

60(2) In applying this section, the Board may require an appraisal of the assets by a qualified appraiser to ascertain the fair market value of the assets using an appraisal method or methods approved by the Manitoba Council, such costs to be borne by the applicants.

M.R. 20/2009

60(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). 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 is false or misleading, the Board may reduce or cancel the quotas in question, whether or not such quotas were re-allotted.

M.R. 20/2009

60(4) The purchaser will be required to provide to the Board a written undertaking, in a form satisfactory to the Board, stating that the purchaser will not apply

(a) for a retirement payment under the Retirement and Annual Table Potato Quota Reallocation System;

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

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

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

(e) to change the certified land or buildings specified by the Board for use by the registered producer to other land or buildings pursuant to section 69;

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

M.R. 20/2009

Lease of complete farm

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

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

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

In the 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 in question, whether or not the quotas were temporarily re-allotted.

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

Bankruptcy or receivership of a registered producer

62 Notwithstanding clause 37(c) hereof, where a person who is a registered producer becomes a bankrupt or applies for a receiving order or where such an order made against such a producer or where such a producer takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to the production or marketing assets of such a producer, the Board may, upon written request of the Trustee in Bankruptcy or the Receiver, temporarily re-allot to the Trustee in Bankruptcy or Receiver, the quotas allotted to such producer upon terms and conditions as may be established by the Board at the time of such temporary re-allotment.

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

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

(a) who becomes the owner of the potato production and marketing business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for growing and harvesting potatoes; or

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

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

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

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

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

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

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

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

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

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

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

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

Partial and complete re-allotment of quota to related persons

66(1) The following definitions apply in this section,

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

"**daughter-Hutterite colony**" means a Hutterite Colony recently created as a result of the division of the assets and 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 as the result of an application under this section.

M.R. 20/2009

66(2) The Board may, upon application of a registered producer in writing, re-allot all or a portion of the quotas allotted to such applicant to another person in the following circumstances:

(a) with respect to an individual applicant, where the recipient is a member of such applicant's immediate family;

(b) with respect to a partnership applicant, where all partners in the partnership are members of the same immediate family and where the recipient is a member of that immediate family;

(c) with respect to a corporation applicant, where all legal and beneficial shareholders in such applicant are members of the same immediate family and where the recipient is a member of such immediate family;

(d) with respect to a Hutterite Colony applicant (or a corporation applicant 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.

M.R. 20/2009

66(3) The Board shall not re-allot quotas to a recipient under subsection (2) until:

(a) the recipient has established a separate farm owned and operated by the recipient on which the recipient will grow, harvest and market potatoes;

(b) the Board is satisfied that the new operation of the recipient and the resulting operation of the applicant will both be economically viable; and

(c) the Board is satisfied that no value has been attributed to such quota.

M.R. 20/2009

66(4) The applicant and the recipient will each be required to provide a statutory declaration in a form acceptable to the Board setting out the information specified therein. In the event that the Board has reasonable grounds for believing that any information provided in such statutory declaration or an application is false or misleading, the Board may cancel or reduce the quotas in question, whether or not such quotas were re-allotted.

M.R. 20/2009

66(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 Annual Table Potato Quota Reallocation System;

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

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

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

(e) to change the certified land or buildings specified by the Board for use by the registered producer to other land or buildings pursuant to section 69;

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

M.R. 20/2009

Re-allotment and maximum quota

67 Subject to section 47, no quota will be re-allotted to an applicant corporation or partnership if:

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

(i) a registered producer, or

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

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

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

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

PART XII.1

RETIREMENT AND ANNUAL TABLE POTATO QUOTA REALLOCATION SYSTEM

Re-allotment under system

67.1 Quotas may be cancelled and re-allotted by the Board as a result of and in accordance with the procedure set out in Schedule "A".

M.R. 133/2003

Acceptance of applications discretionary

67.2 The Designated Staff referred to in Schedule "A" 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.

M.R. 133/2003

PART XIII

QUOTA AND CERTIFIED LAND

Quota to be allotted for certified land

68(1) In allotting a quota to a registered producer, the Board may specify the land on which the producer's potatoes, or any portion of such potatoes, must be grown and harvested.

68(2) A registered producer may apply to the Board to transfer a quota from currently certified land to other land on a temporary or a permanent basis.

68(3) In connection with an application under subsection (2), such registered producer shall provide the Board with such information as the Board may require and such consents which the Board may request from any creditor who has been given security on the certified land used by the registered producer.

No application for change of land or buildings for five years

69 In the event the Board

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

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

(c) re-allots the quota allotted to a registered producer pursuant to Part XII;

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

M.R. 20/2009

Exception from 5 year moratorium on applications

70 The Board may exempt a person from the provisions of section 69 with respect to a transfer or change of the nature outlines in section 55, or with respect to the re-allotment of quotas pursuant to sections 63 and 65 inclusive.

Examination of certified land, storage facilities and inventory

71 It is the condition of the allotment of a quota to a registered producer that such registered producer allow any duly authorized representative of the Board to examine and measure such producer's certified land from time to time for the purpose of certification or re-certification of such land and to examine such producer's storage facilities and inventory. Prior to such examination, the Board will give reasonable notice to such registered producer of its intention to conduct such examination.

PART XIV

THE PLAN AND NON-APPLICATION

Non-application re direct consumer sales

72 As provided in the Plan, this Order does not apply to direct consumer sales.

Non-application re potatoes of small potato producer

73 This Order does not apply to the marketing of potatoes grown by a person who is a small potato producer.

Deliveries by small potato producers

74 Notwithstanding anything contained in this Order, a small potato producer, who has notified the Board in writing on or before June 30 in each year of such producer's desire to market table potatoes through the delivery system of the Board for the crop year following such date, shall be entitled to market up to 600 - 75 pound bags of table potatoes grown by such producer through the delivery system operated by the Board during the following fiscal year of the Board, subject to acceptable quality and condition and the payment of any applicable handling charges, fees or levies, at such time and place as may be determined by the Board.

Direct pricing sales

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

Further non-application

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

Repeal

77 Manitoba Regulation 42/82 is repealed.

July 21, 1994

PEAK VEGETABLE SALES:

David Jeffries
Chairman

John Kuhl
Secretary

APPROVED

January 17, 1995

THE MANITOBA NATURAL PRODUCTS MARKETING COUNCIL:

Howard Motheral
Chairman

Gordon MacKenzie
Secretary

SCHEDULE "A"
(PART XII.1)

RETIREMENT AND ANNUAL TABLE POTATO QUOTA
REALLOCATION SYSTEM

Quotas belong to Board

1 Notwithstanding the terms and provisions in this Schedule or of any forms or materials used in connection with this Schedule, as stated in section 38 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 39 of this Order, no person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment under the Retirement and Annual Table Potato Quota Reallocation System to another person without the prior written consent of the Board.

Definitions

3 In this Schedule,

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

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

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

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

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

"**eligible producer**" means a registered table potato producer;

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

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

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

"**quota unit**" means an annual table quota equal to one 75 pound bag of a type of a table potato;

"**Reallocation Day**" means the day on which a Retirement and Annual Table Potato Quota Reallocation Program is operated;

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

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

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

Except as provided in subsection 7(14) and section 15 of this Schedule and to the extent necessary to provide the notices under subsection 7(8) or as otherwise required in this Schedule, all particulars with respect to an individual Offer or to an individual Bid shall be kept confidential by the Designated Staff and Manitoba Council observers and auditors, and shall not be disclosed to the Members of the Board, Board staff who are not Designated Staff, or any other person whatsoever.

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

Application fees

5 The Board may by Resolution from time to time establish a non-refundable application fee for Offers under this Schedule. Each Offer must be accompanied by any necessary application fee. All application fees shall be credited to an operating account of the Board.

Administration fees and retirement payments

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

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

Each retirement payment paid to a successful offeror will be paid on 90% of the quota units cancelled (see section 10 re Transfer Assessment).

Retirement and annual table potato quota allotment reallocation program procedures

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

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

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

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

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

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

(b) the Producer Registration Number of the offeror;

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

(d) the type of the quota units offered;

(e) an undertaking that the Offeror is willing to accept a retirement payment equal to the then current Effective Retirement Payment upon cancellation of the quota units offered for cancellation;

(f) an undertaking that the Offer will not be withdrawn by the offeror once a notice of the Offer has been given pursuant to subsection 7(8);

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

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

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

7(6) An Offer which would result in the remaining annual table quota of a type allocated to that offeror being reduced to a level below 6,000 75-pound bags of that type will be rejected by the Designated Staff unless the offeror is offering to cancel all quota units of that type allocated to the Offeror.

7(7) No Offer of less than 6,000 quota units of a type will be processed unless the offeror has been allotted an annual table quota of less than 6,000 75-pound bags of table potatoes of that type, in which instance the offeror must offer to cancel all such quota units of that type.

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

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

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

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

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

(b) the Producer Registration Number of the bidder, where applicable;

(c) the Offer to which the Bid is applicable;

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

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

(f) an acknowledgement, in the case of an eligible person, that the Bid will not be valid if the number of quota units available for allocation to successful bidders upon the initial operation of a Retirement and Annual Table Potato Quota Reallocation Program would result in an annual table potato quota to be allotted to such eligible person being less than 6,000 75-pound bags of table potatoes;

(g) an acknowledgement, in the case of a registered table potato producer, that the Bid will not be valid if the number of quota units available for allocation to successful bidders upon any operation of a Retirement and Annual Table Potato Quota Reallocation Program would result in an annual table potato quota to be allotted to such registered producer being less than 6,000 75-pound bags of table potatoes of that type; and

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

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

7(10) 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 such person of such rejection. The fact that a Bid or an Offer is rejected shall not preclude the bidder or offeror from submitting a subsequent Bid or Offer.

7(11) A Bid may be amended or withdrawn, provided such withdrawal or amendment is in writing and in the form of a letter satisfactory to the Designated Staff, sent by the bidder, and is received at the head office of the Board prior to 4:00 p.m. of the last working day before the month in which the proposed Retirement and Annual Table Potato Quota Reallocation Program is to be held. Such withdrawal or amendment must be clear and unambiguous and must identify the bidder by name and by Producer Registration Number, where applicable, and must specify the Bid that is to be withdrawn or amended.

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

No Bid of a type will be accepted if the number of quota units offered for cancellation is less than 6,000 75-pound bags of table potatoes unless the bidder has already been allocated an annual table potato quota of that type.

No Bid will be processed if the number of quota units comprising the Bid, when aggregated with the quota units allocated to such bidder, would exceed maximum quota.

7(12) As provided in section 67.2 of this Order, the Designated Staff may refuse to accept or may postpone processing of any Bid or any Offer. Any decision to postpone the processing of a Bid or an Offer, or to reject a Bid or Offer made by the Designated Staff shall be final. The Designated Staff may also establish terms and conditions before a Bid or an Offer will be processed in the future. Any person who is not satisfied with the terms and conditions established by the Designated Staff before a Bid or Offer will be processed in the future may appeal such decision in writing to the Board.

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

If there is more than one valid Bid with respect to an Offer the amount available for allotment shall be apportioned among all such eligible bidders in equal amounts, provided that any Bid received from an eligible person shall be rejected if the amount available for allotment among such eligible bidders is less than 6,000 75-pound bags of table potatoes (and, following such rejection, the Designated Staff shall recalculate the amount available for allotment amongst all remaining eligible bidders in equal amounts); and further provided that upon recalculation any Bid received from a registered table potato producer bidder shall be rejected if the amount available for allotment amongst the remaining eligible bidders is less than 6,000 75-pound bags of table potatoes and such bidder has not been allocated a table potato quota of that type.

7(14) Following the operation of a Retirement and Annual Table Potato Quota Reallocation Program for an Offer, the Designated Staff shall report to the Board particulars of the Offer, the number of Bids received, and particulars of the successful Bids. The Board will review such report and if satisfied, in its sole discretion, that there have been no irregularities or deficiencies in the operation of that Retirement and Annual Table Potato Quota Reallocation Program, the Board may pass a resolution to accept such results.

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

The allotment of quota units of a type to a successful bidder who is a registered table potato producer will be effective as of the first day of July after the date on which the results of a Retirement and Annual Table Potato Quota Reallocation Program were accepted by the Board and shall be applicable to the marketing of table potatoes harvested after such effective date.

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

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

7(15) Following the Board's consideration of the results of a Retirement and Annual Table Potato Quota Reallocation Program, each participant in the Retirement and Annual Table Potato Quota Reallocation Program will be advised in writing by the Designated Staff whether such participant's Offer or Bid was successful, and if the Bid or Offer was successful, and if successful, the effective date of the allotment or cancellation.

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

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

Retirement fund

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

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

Transfer assessment and transfer assessment pool

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

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

9(3) The Transfer Assessment Pool will be maintained on a gross 75 pound bag basis, without distinguishing types.

Allocation from the transfer assessment pool

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

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

(b) a total of 50% to those persons who are on the waiting list referred to in section 4 of this Order, in the order of priority set out on such waiting list, in amounts of 6,000 quota units each.

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

10(3) A person who receives an allotment under clause (1)(b) shall not be entitled to submit an Offer which would result in the annual table quota allotted to such person being reduced below 6,000 75-pound bags of a type of table potatoes for a maximum of five years from the date of such allotment.

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

Type and effective date of allocation from pool

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

Five year moratorium re new producers

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

Five year moratorium re bidders

13 A successful bidder will not subsequently be eligible to receive a retirement allowance in connection with the cancellation of the equivalent number of quota units under the System if all quota units allotted to such producer are cancelled within five years of such successful Bid. In the event such person subsequently submits an Offer of all quota units allotted to such person during such five-year period, an equivalent number of quota units shall be debited against the number of quota units offered, so that the offeror will only be entitled to receive a retirement payment with respect to 90% of the balance of such quota units, and the quota units so debited shall be credited to the Transfer Assessment Pool.

Notification lists

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

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

Five year moratorium re increased annual table quota

15 In the event a person is allocated an increase in annual table quota under section 8 of this Order, such person shall not be eligible to receive a retirement payment in connection with the cancellation of the equivalent number of quota units under the System within five years of such increase. In the event such person submits an Offer of quota units allotted to such person during such five-year period, a number of quota units equal to the number of quota units allocated to such person under section 8 of this Order within such five-year period shall be debited against the number of quota units offered, so that the offeror will only be entitled to receive a retirement payment with respect to 90% of the balance of such quota units, and the quota units so debited shall be credited to the Transfer Assessment Pool.

Information

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

M.R. 133/2003; 20/2009