REPEALED

Repealed by M.R. 52/2011.
Date of repeal: 10 May 2011

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

ABROGÉ

Abrogé par R.M. 52/2011.
Date d'abrogation : 10 mai 2011

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

Potato (Freshly Dug) Seasonal Farmers' Market/Roadside Stand Exemption Order*

Regulation 29/2010
Registered March 12, 2010

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Definitions

1 In this Order,

"**bulk form**" means offering for sale on a price per pound or kilogram basis and excludes prepackaged product;

"**farmers' market**" means a facility operated by a member of the Farmers' Markets Association of Manitoba Co-op Inc.;

"**federal and provincial legislation**" includes the provisions of *The Plant Pests and Diseases Act* and regulations made pursuant to that Act, the *Pest Control Products Act* (Canada) and regulations made pursuant to such Act, as well as all other applicable federal and provincial food safety and labelling regulations, programs and protocols;

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* This regulation is made under the *Manitoba Vegetable Producers Marketing Plan Regulation*, Manitoba Regulation 117/2009, and is Regulation No. 1, 2010 of Peak of the Market.

"**freshly dug potatoes**" means a potato marketed on or before October 31st in the calendar year in which such potato is grown;

"**non-certified potatoes**" means non-certified potatoes as defined in the *Seeds Regulations*, C.R.C., c.1400, made under the *Seeds Act* (Canada);

"**non-registered person**" means a person who is not a registered person or a person related to a registered person under the *Manitoba Vegetable Producers Marketing Plan Regulation*, Manitoba Regulation 117/2009, or under the *Manitoba Processing Potato Marketing Plan Regulation*, Manitoba Regulation 206/2006;

"**permit**" means a permit issued to a permit holder pursuant to the terms of this Order;

"**permit holder**" means a person who has been issued a permit pursuant to the provisions of this Order;

"**a person related to a registered person**" includes a shareholder, director or officer of a registered person, a person who has a legal or beneficial interest in a registered person, and the spouse or dependent child of a registered person or such other person;

"**roadside stand**" means a facility solely owned and operated by a permit holder, the location of which has been approved by the board.

Purpose

2 The purpose of this Order is to provide for the production and marketing in bulk form of freshly dug potatoes by a non-registered person on a seasonal basis at a roadside stand solely owned and operated by such person or at a stall in a farmers' market leased or rented to and solely operated by such person, on a basis that does not compete with or negatively impact on the supply managed system for the production and marketing of potatoes conducted by the board.

Exempt activities

3 Subject to the terms of this Order, any person who has been issued a permit pursuant to this order is exempt from the following:

(a) *Vegetable Registration Order*, Manitoba Regulation 188/88;

(b) *Potato General Order*, Manitoba Regulation 123/2000, except the provisions of section 12;

(c) *Potato Quota Order*, Manitoba Regulation 13/95;

(d) *Potato Promotion and Research Levies Regulation*, Manitoba Regulation 125/2004;

with respect to any potatoes marketed by such person in accordance with the terms of this Order.

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Limitation of applicable product

4 The exemptions provided for in section 3 of this Order are only applicable to freshly dug potatoes grown and harvested by a permit holder and marketed in bulk form by the permit holder in accordance with the terms of the permit issued to such person pursuant to this Order.

Limitation on producing and marketing

5 The exemptions provided for in section 3 of this Order are subject to the following conditions:

(a) that the potatoes marketed by the permit holder are not produced or attempted to be produced using non-certified potatoes as seed;

(b) that the permit holder does not produce or attempt to produce potatoes to be marketed pursuant to a permit (including any permit issued by the board pursuant to any other permit system established by the board) on more than a total of five acres of land;

(c) that such potatoes are produced, harvested, and marketed by the permit holder using land, equipment and facilities solely owned or leased or rented solely to, and solely operated by the permit holder, with no marketing activity occurring outside of the stall in the farmers' market solely leased or rented to and solely operated by the permit holder or the roadside stand solely owned and solely operated by the permit holder specified in the permit;

(d) that such potatoes are marketed by the permit holder directly to an individual for consumption by that individual and that individual's immediate family or any one of them, or otherwise consumed by the permit holder and the permit holder's immediate family;

(e) that any potatoes produced by a permit holder during a calendar year and not marketed by that permit holder prior to November 1st of that calendar year must be delivered to a food bank which is a member of the Manitoba Association of Food Banks, as a gift without consideration, for distribution by such food bank without charge to that food bank's recipients (for consumption by such recipients and members of the recipient's immediate family) no later than November 30th of such calendar year;

and to such other conditions as may be set out in any permit issued pursuant to this Order.

Conditions re compliance

6 This Order is subject to the condition that the permit holder comply with all orders and regulations established by the board other than those provisions set out in section 3 of this Order with respect to all activities of the permit holder related to the production and marketing of potatoes and with all applicable federal and provincial legislation.

Cancellation

7 If the permit holder fails to comply with any order, regulation or written directive of the board, or any condition of this Order, or any condition of a permit issued pursuant to this Order, the exemptions provided in section 3 of this Order shall, upon motion of the board to such effect, terminate.

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Non-transferability

8 The exemptions provided in this Order are non-transferable.

Coming into force

9 This Order comes into force on the 31st day of March, 2010 or on the date it is registered with the Registrar of Regulations, whichever date shall be later.

February 24, 2010

PEAK OF THE MARKET:

Keith Kuhl
Chair

David Jeffries
Vice-Chair

APPROVED

March 8, 2010

MANITOBA FARM PRODUCTS MARKETING COUNCIL:

David Gislason
Chair

Debora Durnin-Richards
Secretary

The Queen's Printer
for the Province of Manitoba

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