REPEALED

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Broiler Breeder Laying Hen Quota Order*

Regulation 295/89
Registered December 19, 1989

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* This order is made under the *Manitoba Broiler Hatching Egg Marketing Plan Regulation*, Manitoba Regulation 240/87R and is Order 2/89 of The Manitoba Broiler Hatching Egg Commission.

All persons making use of this consolidation are reminded that it has no legislative sanction. Amendments have been inserted into the base regulation for convenience of reference only. The original regulation should be consulted for purposes of interpreting and applying the law. Only amending regulations which have come into force are consolidated. This regulation consolidates the following amendments: 46/91; 103/91; 195/94; 119/95; 149/95; 182/97; 198/97; 97/99.

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PART I

INTERPRETATION

Definitions

1 In this order:

"allotable broiler hatching egg quota" means the difference between the Manitoba quota limit and the aggregate of all broiler hatching egg marketing quotas that are allotted to producers by the commission;

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

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

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

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

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

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

"Manitoba quota limit" means the limit for Manitoba for interprovincial and intraprovincial trade in broiler hatching eggs set out in the Schedule to the Canadian Broiler Hatching Egg Marketing Quota Regulations, SOR/87-209, made under the *Farm Products Agencies Act* (Canada);

"maximum quota" means a broiler breeder laying hen quota of, or broiler breeder laying hen quotas which aggregate, 20,000 laying hens;

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

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

"quota" means a broiler breeder laying hen quota;

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

M.R. 195/94; 119/95; 182/97; 198/97; 97/99

PART II

ALLOCATION AND ADJUSTMENT OF QUOTA

Application for quota

2 A person may apply to the commission for the allotment of a quota for a facility by an application in writing in a form prescribed by the commission and signed by the applicant.

M.R. 198/97

Criteria for allotment of quota

3 The commission may allot a quota to the applicant for a facility if

(a) the applicant is the owner or lessee and sole operator of a facility

(b) the facility complies with the requirements or standards for keeping laying hens and handling broiler hatching eggs produced by such hens that the Commission establishes from time to time;

(c) the commission is satisfied that all other requirements of this Order and any other applicable laws are met; and

(d) the commission has available sufficient allotable broiler hatching egg quota to permit an allotment of quota to the applicant.

M.R. 46/91; 198/97

Minimum quota

3.1 No quota shall be allotted to an applicant who holds no broiler breeder laying hen quota unless as a result of the allotment or allotments the applicant will hold at least the minimum quota.

M.R. 182/97

Record of quota allotments

4 The quota of each registered producer is the quota shown opposite the producer's name on the list of registered producers approved by the commission on the 23rd day of September, 1997, as it may be amended from time to time by the commission.

M.R. 198/97

Adjustments in quota related to changes in allotable quota

5(1) The commission may, by resolution, increase or decrease the quotas of registered producers on a pro rata basis, or on such other equitable basis as may be determined by the commission, to reflect increases or decreases in the Manitoba quota limit.

M.R. 198/97

5(2) In determining whether and in what manner to increase or decrease quotas under subsection (1), the commission shall consider

(a) any minimum quota and maximum quota;

(b) any earlier decreases or increases to the quota of registered producers; and

(c) such other factors as the commission considers relevant.

M.R. 198/97

Maximum quota

6 A registered producer shall not be allotted more than the maximum quota.

M.R. 198/97

Production period

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

Activities within a production period

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

Temporary adjustments

9 If the Commission estimates that:

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

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

(i) extend the production period of a registered producer and reduce his down-time, or

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

PART III

TEMPORARY LAYING HEN PERMITS

Application for temporary laying hen permits
10(1) Any person may apply to the Commission for a temporary laying hen possession permit.

Term and terms of permits
10(2) The Commission may issue temporary laying hen possession permits for a term of not more than 38 weeks on such terms and conditions as the Commission may establish, and may suspend, amend, or cancel such permits.

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PART IV

REDUCTION OR CANCELLATION OF QUOTA

Cancellation of quota on death, winding up, etc.

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

Cancellation of quota on cancellation of registration

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

Other reduction or cancellation of quota

13 The Commission 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 Commission; or

(c) where the facilities of a producer fail to meet the requirements or standards for raising and keeping laying hens and handling broiler hatching eggs produced by such laying hens as may be established by the Commission; or

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

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

(i) deprive him of his right to the proceeds from the marketing of broiler hatching eggs produced by him, or

(ii) deprive him of his right to a payment or an entitlement to a payment or an anticipated payment from the Retirement and Quota Reallocation System to another person without the prior written consent of the Commission, or

(iii) require him to purchase a product or a service in connection with the marketing of broiler hatching eggs produced by him, or

(iv) obligate him with respect to the marketing of broiler hatching eggs produced by him in connection with the acquisition of a product or a service by him; or

(f) if the Commission has reasonable grounds for believing that such action is in the interests of Manitoba producers and the broiler hatching egg industry.

M.R. 46/91

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PART V

OWNERSHIP OF QUOTAS

Quotas belong to the Commission
14 Quotas are the property of the Commission.

Quotas non-transferable by producer
15 The right to a quota allotted by the Commission is not negotiable, and no producer shall assign, sell or offer for sale, or receive payment for any such quota.

Retirement and quota reallocation system payments non-transferable
15.1 No person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment from the Retirement and Quota Reallocation System to another person without the prior written consent of the Commission.

M.R. 103/91

PART VI

PROHIBITIONS

Prohibitions
16(1) No person shall raise or keep laying hens unless he has been allotted a broiler breeder laying hen quota by this Commission or a temporary laying hen possession permit.

16(2) No person to whom this Commission has allotted a broiler breeder laying hen quota shall raise or keep laying hens in a facility during his production period which aggregate in excess of the broiler breeder laying hen quota allotted to him by this Commission for that facility.

16(3) No person to whom this Commission has issued a temporary laying hen possession permit shall raise or keep laying hens in excess of the number of laying hens specified on such permit.

16(4) Unless otherwise permitted by this Commission in writing, no person shall raise or keep laying hens other than in or on a facility that has been certified by this Commission for such purposes.

16(5) No person shall raise or keep laying hens unless he has been issued a Laying Hen Possession Certificate by this Commission.

16(6) No person shall raise or keep laying hens other than in or on the facility specified on the current Laying Hen Possession Certificate issued to such person by this Commission.

16(7) No person shall raise or keep laying hens in a facility unless a Laying Hen Possession Certificate issued to him is prominently displayed on that facility.

16(8) No person shall raise or keep laying hens in or on a facility at any point in time in excess of the number of laying hens specified on the current Laying Hen Possession Certificate issued to that person by this Commission for that facility for that point in time.

PART VII

GENERAL

Effect of sharing

17 Where two or more persons keep laying hens in partnership, or in circumstances in which there is a sharing by them whether familial, communal or otherwise, of facilities, 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 laying hens kept by one of those persons shall be deemed to have been kept by the other or others.

Acquisition of interests in excess of maximum quota prohibited

18 Notwithstanding anything contained in this Order but subject to sections 19 and 20, the Commission will take appropriate action to prevent a person from acquiring control of or acquiring a direct or indirect interest in broiler breeder laying hen quotas in excess of maximum quota.

19 Repealed.

M.R. 198/97

Exception for financial assistance to children

20 Notwithstanding section 18, the Commission may approve the provision of financial assistance by a registered producer to one or more children of the registered producer, or of a shareholder of a registered producer, or of a partner of a registered producer, for the purpose of enabling such child or children to acquire facilities and to become a registered producer. Any such approval will be subject to the applicants' satisfying the Commission that

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

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

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

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

Step-transactions prohibited
21 Notwithstanding anything contained in this Order, the Commission 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 Commission; or

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

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

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

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

PART VIII

CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

Special definitions
22 In this Part,

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

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

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

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

Transfers by a substantial holder

23 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 Commission may cancel or reduce the quotas of such registered producer unless the parties to such transfer have requested in writing that the Commission waive this provision and have each provided the Commission, by Statutory Declaration and Certificate in a form acceptable to the Commission, 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 Commission has in its discretion waived this provision either conditionally or unconditionally.

Grounds for non-waiver re transfers

24 Subject to the provisions of section 19, the provisions of section 23 will not be waived by the Commission if the Commission has reasonable grounds for believing that as a result of such transfer a person would have a direct or indirect interest in a quota or quotas which aggregate in excess of maximum quota.

Bankruptcy or receivership of a controlling party

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

False or misleading information re transfers

26 In the event that the Commission 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 Commission in waiving the provisions of section 23 or section 25 have not been met by the parties, the Commission may cancel or reduce the quotas of the registered producer whether or not the provisions of section 23 or section 25 have been previously waived by the Commission.

Reduction of requirements re certain transfers

27 The Commission may establish policies from time to time reducing its requirements under section 23:

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

(i) from an individual to a member of his immediate family, or

(ii) 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 eighteen (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 his 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 share of a corporation that is a registered producer.

PART IX

ASSOCIATION OF REGISTERED PRODUCERS

Deemed association

28 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

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

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Grounds for non-waiver re association

30 The provisions of section 29 will not be waived by the Commission if the Commission has reasonable grounds for believing that as a result of such association a person would have a direct or indirect interest in a quota or quotas which aggregate in excess of maximum quota.

False or misleading information re association

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

PART X

RE-ALLOTMENT OF QUOTA

Complete farm sales

32 In the event a registered producer sells the land, buildings, and equipment used by him for raising or keeping laying hens, the Commission may re-allot the quotas used in association with such facilities 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 facility.

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

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Commission 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 Commission has reasonable grounds for believing that any information provided in such Statutory Declaration is false or misleading, the Commission may reduce or cancel the quotas in question, whether or not such quotas were re-allotted.

Sale of movable buildings and equipment

33 In the event a registered producer sells a building used by him in raising or keeping laying hens, the Commission may re-allot the quotas used in association with such building (and any equipment included in such sale) to such purchaser provided it is satisfied that:

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

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

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

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

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

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Commission confirming the sale and purchase consideration (both direct and indirect) and any of the matters set out above. All agreements between the registered producer and the purchaser (including a detailed listing of all assets included in such sale) shall be appended to such Statutory Declaration.

The purchaser will be required to give to the Commission a written undertaking, in a form satisfactory to the Commission, verifying that the purchaser will not apply for a retirement payment under the Retirement and Quota Reallocation System, or to relocate facilities under section 44, for a minimum period of five years.

The purchaser will be required to give to the Commission a written undertaking, in a form satisfactory to the Commission, verifying that the purchaser will use such building and equipment in connection with the re-allotted quotas for a minimum of two (2) years after relocation and installation of such building and equipment on the new foundation.

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

M.R. 103/91

Lease of complete farm

34 In the event a registered producer leases the land, buildings, and equipment used by him in raising or keeping laying hens for a term not to exceed two (2) years in length, the Commission may temporarily re-allot the quotas used in association with such land, buildings and equipment to any lessee for the term of the lease provided it is satisfied that no value has been attributed to such quota and that no more than fair market rental for such facility is being paid under the lease arrangement directly or indirectly for the lease of such facility, or any other assets included in such lease (including any transaction with respect to laying hens).

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

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

In the event that the Commission has reasonable grounds for believing that any information provided in such Statutory Declaration or any requested Certificate is false or misleading, the Commission 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 Commission back to the lessor. Any extension or renewal of a term under a lease will be treated as a new lease.

Bankruptcy or receivership or a registered producer

35 Notwithstanding clause 14(d), where a person who is a registered producer becomes a bankrupt or applies for a receiving order or has such an order made against him or takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to the production assets of a registered producer, the Commission 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 Commission at the time of such temporary re-allotment.

M.R. 46/91

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

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

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

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

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

M.R. 46/91

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

37 Where an individual who is a registered producer enters into a partnership with a member of his immediate family, the Commission may, on written request of such registered producer, re-allot the quota allotted to such registered producer to such partnership

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

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

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

M.R. 46/91

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

38 Where an individual who is a registered producer incorporates a corporation controlled by himself and/or members of his 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 Commission may, on written request of such registered producer, re-allot the quota allotted to such registered producer to such corporation or subsidiary

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

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

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

M.R. 46/91

Partial and complete re-allotment of quota to related persons

39 The Commission may, upon application of a registered producer in writing, (herein called "the applicant") re-allot all or a portion of the quotas allotted to such applicant to another person (herein called "the recipient") 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. For the purpose of this provision a daughter-Hutterite Colony shall mean a Hutterite Colony recently created as a result of the division of the assets and the membership of a Hutterite Colony;

provided that no such re-allotment will be made until the recipient has established a separate facility owned and operated solely by him in which to keep laying hens, and further provided that the Commission is satisfied that no value has been attributed to such quota.

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Commission setting out the information specified therein and in the event that the Commission has reasonable grounds for believing that any information provided in such Statutory Declaration or an Application is false or misleading, the Commission may cancel or reduce the quotas in question, whether or not such quotas were re-allotted.

Re-allotment and maximum quota

40 Except as permitted by the Commission under section 19, 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 a quota or quotas which are equal to or aggregate in excess of maximum quota; or

(b) the Commission 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 quota.

PART X.I

RETIREMENT AND QUOTA REALLOCATION SYSTEM

Reallotment of quotas under system
40.1 Broiler breeder laying hen quotas may be cancelled and realloted by the Commission in accordance with the procedure set out in Schedule "A" hereto.

M.R. 103/91

Acceptance of applications discretionary
40.2 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 Quota Reallocation System for such reasons or on such terms as they deem appropriate.

M.R. 103/91

PART XI

FACILITIES

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

Approved capacity of a facility
42 A registered producer shall not keep more laying hens in a facility than its capacity approved by the commission.

M.R. 198/97

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Standards for operating and handling
43 It is a condition of the allotment of a quota to a registered producer that such registered producer:

(a) equip and operate the facility in or on which such registered producer raises or keeps laying hens in such a manner as to provide proper ventilation, heating, feed and water, and sanitation for the laying hens kept in such facility;

(b) follow generally accepted management practices in handling broiler hatching eggs produced in his facility; and

(c) store broiler hatching eggs produced in his facility in a clean egg room which egg room shall at all times maintain a temperature of 16 degrees C to 18 degrees C (60 degrees F to 65 degrees F) and a relative humidity of 75% to 80%.

Relocation and consolidation of facilities
44(1) Subject to section 45, in the event that a registered producer has been allotted a portion of the quota allotted to him for one facility and a portion for another facility or facilities, he may apply to the Commission to transfer all or part of such quota from one facility to another facility or facilities on a temporary or a permanent basis. A registered producer may make application to relocate his laying hen and egg production activities to a new location.

Creditor consent for relocation
44(2) In conjunction with an application under subsection (1), such registered producer shall provide the Commission with such information as the Commission may require and such consents as the Commission may request from any creditor who has been given security on the facilities used by the registered producer.

No application for change of location or consolidation of facility following re-allotment or change in beneficial ownership for two years
45 In the event the Commission re-allots the quota allotted to a producer pursuant to Part X, or approves the change in beneficial ownership of a registered producer pursuant to Part VIII, or approves an association of persons who are registered producers pursuant to the provisions of Part IX, it shall be a condition of such re-allotment or such approval that such transferees must acknowledge that only in the event of an unforeseen contingency will such producer be permitted to apply to transfer such quota from the facility specified for use in connection with such quota at the time of re-allotment or approval to a facility located on another property for a period of at least two years following such re-allotment, change, or association.

Exception to two year moratorium on applications
46 The Commission may exempt a person from the provisions of section 45 with respect to a transfer or a change of the nature outlined in section 27, or with respect to re-allotment of quota pursuant to sections 36 to 38 inclusive.

Emergency relocation
47 The Commission may allow a registered producer to temporarily relocate his laying hens to another location in the event of an emergency, even if the registered producer is not the registered owner or the sole operator of the facility on that new location.

Examination of facilities

48 It is the condition of the allotment of quota to a registered producer that such registered producer allow any duly authorized representative of the Commission to examine and measure the interior and exterior dimensions of his facility and to calculate minimum space requirements per laying hen for the purpose of ascertaining compliance of same with the provisions of sections 42 and 43. Prior to such examination, the Commission will give reasonable notice to such registered producer of its intention to conduct such examination.

PART XII

REPEAL

Repeal

49 Manitoba Regulation 75/86 is repealed.

November 28, 1989

THE MANITOBA BROILER HATCHING EGG COMMISSION,
Per:

Russell W. Scott
Chairman

Ron Drohomereski
Vice-Chairman

APPROVED

December 11, 1989

THE MANITOBA NATURAL PRODUCTS MARKETING COUNCIL,
Per:

Howard Motheral
Chairman

Gordon H. MacKenzie
Secretary

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SCHEDULE "A"

TO THE *BROILER BREEDER LAYING HEN QUOTA ORDER*
RETIREMENT AND QUOTA REALLOCATION SYSTEM
(Section 40.1)

Quotas owned by Commission

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 14 of this Order, quotas are the property of the Commission, and any quotas allotted pursuant to the procedure set out in this Schedule may be suspended, reduced or cancelled in accordance with this Order.

M.R. 103/91; 149/95

No assignment of payment

2 As stated in section 15.1 of this Order, no person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment under the Retirement and Quota Reallocation System to another person without the prior written consent of the Commission.

M.R. 103/91; 149/95

Definitions

3 In this Schedule,

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

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

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

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

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

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

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

"quota" means broiler breeder laying hen quota;

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

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

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

"Retirement Fund" means a trust account established by the Commission 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.

M.R. 103/91; 149/95

Retirement and quota reallocation system administration

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

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

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

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

M.R. 103/91; 149/95

Application fees

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

M.R. 103/91; 149/95

Administration fees and retirement payments

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

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

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

M.R. 103/91; 149/95

Retirement and quota reallocation program procedures

7(1) Designated Staff may operate a Retirement and Quota Reallocation Program on or before the sixth regular business day of the month following the month in which notification of receipt of an Offer is given by the Commission to registered broiler hatching egg producers and to registered hatchery operators.

M.R. 103/91; 149/95

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

M.R. 149/95

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

M.R. 149/95

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

(a) The amount of quota, expressed in quota units offered for cancellation;

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

(c) The name, address and signature of the offeror;

(d) The Producer Registration Number of the offeror; and

(e) The name of the Hatchery which currently acquires the offeror's hatching eggs.

Each Offer may specify up to two quantities of quota units offered for cancellation. If two quantities are specified in an Offer, one quantity must be equal to all of the quota units allocated to that offeror.

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

M.R. 149/95

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

M.R. 149/95

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

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

(a) The amount of quota, in quota units, requested for allotment;

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

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

(d) The Producer Registration Number of the bidder, where applicable; and

(e) An acknowledgement, in writing, from a Hatchery, that it is prepared to accept the hatching eggs produced by the bidder should the Bid be successful.

The amount of quota requested for reallotment must be equal to either the maximum number of quota units specified in the Offer, or the minimum number of quota units specified in the Offer. Only one quantity of quota units may be specified in any Bid.

The administration fee set out in a Bid must be at least equal to the minimum retirement payment set out in the Offer.

In order for a Bid to be eligible to be processed on a Program, the bidder must submit a separate bank draft or credit union primary order payable to the Commission representing the full amount of the administration fee such bidder proposes to pay in connection with that Bid, which must be received at the Commission's head office no later than 4:00 p.m. on the day before the proposed Reallocation Day.

M.R. 149/95

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

M.R. 149/95

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

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

M.R. 149/95

7(9) As provided in section 40.2 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 Commission.

M.R. 149/95

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

In the event no qualified Bid is received for the highest number of quota units offered, the Designated Staff shall qualify all valid Bids for the lower number of quota units offered. In the event only one qualified Bid is received for the lower number of quota units offered for cancellation, that Bid will be deemed to be the successful Bid. In the event more than one qualified Bid is received for the lower number of quota units offered for cancellation, the Bid offering the highest administration fee per quota unit will be deemed to be the successful Bid. In the event two or more qualified Bids offering the highest administration fee per quota unit are identical, the Designated Staff shall conduct a lottery among such identical Bids to determine the successful Bid.

M.R. 149/95

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

Following the acceptance of the results of a Retirement and Quota Reallocation Program, the Commission will pass a resolution to allot quota to the successful bidder and to cancel quota of successful offeror in order to implement such results.

M.R. 149/95; 182/97

7(12) Following the Commission's consideration of the results of a Retirement and Quota Reallocation Program, each participant in the Retirement and Quota Reallocation Program will be advised in writing by the Designated Staff whether his Offer or Bid was successful.

M.R. 149/95

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

M.R. 149/95

Limits on bids and offers

8(1) No Offer shall be accepted that, if successful, would result in the offeror being allotted a quota that is less than the minimum quota.

M.R. 103/91; 149/95; 182/97

8(1.1) An offeror is not eligible to be a bidder on a Retirement and Quota Reallocation Program arising from the offeror's Offer.

M.R. 182/97

8(2) No Bid shall be processed if the number of quota units comprising the Bid, when aggregated with the quota units allocated to such bidder, would exceed maximum quota.

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 the entire quota allotted to such producer is cancelled within two (2) years of such successful Bid. In the event such person subsequently submits an Offer of all quota units allotted to him during such two (2) year period, an equivalent number of quota units shall be debited against the amount of quota offered, so that the offeror will only be entitled to receive a retirement payment with respect to the balance of such quota units.

M.R. 103/91; 149/95

Retirement fund

9(1) All administration fees paid to the Commission by successful bidders will be allocated to the Retirement Fund.

M.R. 103/91; 149/95

9(2) All retirement payments made by the Commission to successful offerors will be paid from the Retirement Fund.

M.R. 103/91; 149/95

Notification lists

10 Any person who is not a registered producer and who wishes to participate in a Retirement and Quota Reallocation Program as a bidder may request in writing, in such form as the Commission 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 (1) year after being added to such List. A person on such List may request, in such form as the Commission may prescribe for such purposes, that such person's name be included on such List for a further one (1) year period, provided such application is made not earlier than one (1) month prior to the date upon which such person's name would otherwise be deleted from such List.

M.R. 103/91; 149/95

Information

11 The Commission shall cause a notice to be sent to each registered broiler hatching egg producer and to each registered hatchery operator, in a form approved by the Manitoba Council, within thirty (30) days following Commission approval, indicating the results of each Retirement and Quota Reallocation Program.

M.R. 103/91; 149/95

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