REPEALED

Repealed by M.R. 51/2011.
Date of repeal: 10 May 2011

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

ABROGÉ

Abrogé par R.M. 51/2011.
Date d'abrogation : 10 mai 2011

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

Potato (Freshly Dug) Seasonal Retail Production and Marketing Exemption Order*

Regulation 30/2010
Registered March 12, 2010

TABLE OF CONTENTS

Section

1 Definitions
2 Purpose
3 Exempt activities
4 Limitation of applicable product
5 Limitation on producing and marketing
6 Conditions re compliance
7 Cancellation
8 Non-transferability
9 Coming into force

Definitions

1 In this Order,

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

"**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;

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

* This regulation is made under the *Manitoba Vegetable Producers Marketing Plan Regulation*, Manitoba Regulation 117/2009, and is Regulation No. 2, 2010 of Peak of the Market.

"**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 holder**" means a seasonal retail vendor permit holder or a seasonal producer permit holder issued pursuant to the provisions of this Order;

"**a person related to a registered person**" includes a shareholder, a 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;

"**seasonal basis**" means conducting a retail operation selling produce and other items for human consumption but does not include the conduct of such activities during any part of the months of December, January, February and March;

"**seasonal producer permit holder**" means a person who has been issued a permit authorizing the production of freshly dug potatoes pursuant to the terms of this Order and the marketing of such potatoes to a seasonal retail vendor permit holder;

"**seasonal retail vendor permit holder**" means a person who has been issued a permit authorizing that person to acquire freshly dug potatoes from a seasonal producer permit holder for resale pursuant to the terms of this Order.

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 to a seasonal retail vendor permit holder, 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.

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 seasonal producer permit holder and marketed by such permit holder to a seasonal retail vendor permit holder named in the permit issued to such persons, provided that such potatoes are marketed in bulk form by the seasonal retail vendor permit holder on a seasonal basis in accordance with the terms of the permit issued to such persons 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 seasonal producer permit holder are not produced or attempted to be produced using non-certified potatoes as seed;

(b) that the seasonal producer 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 seasonal producer permit holder using land, equipment and facilities solely owned or leased or rented solely to and solely operated by the seasonal producer permit holder, and are marketed to the seasonal retail vendor permit holder named in the permit issued to such persons;

(d) that such potatoes are marketed on a seasonal basis by the seasonal retail vendor at the facility operated by the seasonal retail vendor specified in the permit in bulk form 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 holders each 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 holders related to the production and marketing of potatoes and with all applicable federal and provincial legislation.

Cancellation
7 If any 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.

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