

Pullet Production Quota Order, amendment*

Regulation 55/2002
Registered April 5, 2002

Manitoba Regulation 127/98 amended

1 The Pullet Production Quota Order, Manitoba Regulation 127/98, is amended by this order.

2 The Schedule is repealed and the following is substituted:

SCHEDULE "A"

(PART XI)

RETIREMENT AND QUOTA REALLOCATION SYSTEM

Quotas owned by 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 18 of this Order, quotas are the property of the Board, and any quotas 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 20 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 Board.

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 of the Board designated from time to time to operate the Retirement and Quota Reallocation System;

* This order is made under the Manitoba Egg and Pullet Producers' Marketing Plan Regulation, Manitoba Regulation 242/87 R and is Order No. 2, 2002 of Manitoba Egg Producers.

"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;

"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 such registered producer by the Board;

"quota" means pullet production quota;

"quota unit" means a quota equal to one pullet;

"program clearing amount" ("PCA") on a Retirement and Quota Reallocation Program means the least amount, expressed in dollars and cents per quota unit, at which the cumulative volume (in an ascending order of amounts) of quota units offered for cancellation equals or most closely equals the cumulative volume (in a descending order of amounts) of quota units requested for allotment;

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

"Reserve" means an account established by the Board to which any quota acquired to balance a Retirement and Quota Reallocation Program in the manner contemplated by clause 8(12)(b) is credited; and to which any monies received for quota added to balance a Retirement and Quota Reallocation Program in the manner contemplated by clause 8(12)(a) are credited;

"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 such registered producer cancelled in the manner provided in this Schedule, and a registered producer or an eligible person may request that quota units be allotted to such person in the manner provided in this Schedule.

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 Board.

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 8(13) and to the extent necessary to provide notices required under subsection 8(5) or as otherwise required in this Schedule, all particulars with respect to an individual Offer or to an individual Bid shall be kept confidential by the Designated Staff and Manitoba Council observers and auditors, and shall not be disclosed to the Members of the Board, Board staff who are not Designated Staff, or any other person whatsoever.

The Board may prescribe forms to be used in the operation of a Retirement and 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.

Retirement fund

6 All administration fees paid by successful bidders shall be credited to a trust fund established by the Board (the Retirement Fund). All retirement payments made to successful offerors shall be debited from the Retirement Fund.

Administration fees and retirement payments

7 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.

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

Each retirement payment paid to a successful offeror will be paid on each quota unit cancelled.

Retirement and quota reallocation program procedures

8(1) The Designated Staff shall operate a Retirement and Quota Reallocation Program on or before the 5th day of the month following the month in which notification of receipt of an Offer is given by the Board to registered producers and eligible persons.

8(2) Designated Staff may cancel, or may postpone, for up to 7 days at any time, the operation of any Retirement and Quota Reallocation Program for any reason they deem advisable.

8(3) A person wishing to submit an Offer must do so in writing, either by letter, fax or e-mail, in a form satisfactory to the Designated Staff, to the Board's head office.

8(4) 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 amount of quota, expressed in quota units, offered for cancellation;
- (d) the retirement payment, to the nearest cent per quota unit, which the offeror is willing to accept upon cancellation of the quota units offered for cancellation;

(e) the Retirement and Quota Reallocation Program (month) to which the Offer applies; and

(f) an undertaking that the Offer will not be withdrawn by the offeror once a notice has been given to a registered producer of the Offer pursuant to subsection 8(5).

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.

8(5) Upon receipt of an Offer in an acceptable form, the Designated Staff shall cause a notice to be mailed, faxed or e-mailed to each registered producer and each eligible person indicating the fact that an Offer has been received; the number of offerors; the retirement payment per quota unit which each offeror is willing to accept upon cancellation of the quota units offered for cancellation by that offeror; the number of quota units offered for cancellation by each offeror at the proposed retirement payment level; the total number of quota units offered for cancellation; and the Reallocation Day. The notice may contain such other information with respect to the Offer and the options available to the registered producer as the Designated Staff deems appropriate.

8(6) A registered producer or an eligible person wishing to submit a Bid on a Retirement and Quota Reallocation System must do so in writing, either by letter, fax or e-mail 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. of the last working day before the month in which the proposed Retirement and Quota Reallocation Program is to be held.

Each Bid on a particular Retirement and 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 amount of quota, in quota units, requested for allotment;
- (d) the administration fee, which the bidder is willing to pay upon allotment of the quota requested for allotment; and
- (e) the Retirement and Quota Reallocation Program (month) to which the Bid applies.

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 no later than 4:00 p.m. of the working day before the day on which the Retirement and Quota Reallocation Program is to be held.

8(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.

8(8) A Bid may be amended or withdrawn, provided such withdrawal or amendment is in writing and in the form of a letter, fax or e-mail satisfactory to the Designated Staff, sent by the bidder, and is received at the head office of the Board prior to 4:00 o'clock in the afternoon of the last working day before the month in which the proposed 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.

8(9) As provided in section 47 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.

8(10) On each Reallocation Day, the Designated Staff shall qualify all valid Bids and proceed to match as closely as possible the cumulative volume, in an ascending order of quota units offered, in the Offer(s) with the cumulative volume, in a descending order of quota units submitted, in the Bids. This procedure shall be known as "clearing" the Retirement and Quota Reallocation Program. The program clearing amount (PCA), as determined by clearing the Retirement and Quota Reallocation Program, shall be the least amount at which the cumulative volumes most closely match, and shall be the amount of the administration fee payable to the Board by a successful bidder and the amount of the retirement allowance payable by the Board to a successful offeror under that Retirement and Quota Reallocation Program.

8(11) Subject to subsection (12) herein and to the acceptance of the results by the Board under subsection (13),

(a) if a bidder has submitted a Bid with an administration fee equal to, or higher than, the PCA, then that Bid shall be deemed successful and the Board may negotiate the bank draft or primary order representing the full amount of the administration fee submitted by the bidder as payment for the quota units bid;

(b) if an offeror has submitted an Offer at a retirement allowance equal to or lower than, the PCA, then that Offer shall be deemed successful and the offeror shall be entitled to receive from the Board a retirement allowance equal to the PCA for such quota units offered upon cancellation of the quota.

8(12)(a) Upon the clearing of a Retirement and Quota Reallocation Program

(i) if it is determined by the Designated Staff that, at the PCA, the cumulative volume of quota units in the Offers are less than 75% of the cumulative volume of quota units in the Bids, the Designated Staff may cancel the Program, and

(ii) if it is determined by the Designated Staff that, at the PCA, the cumulative volume of quota units in the Offers are equal to 75% or more of the cumulative volume of quota units in the Bids, the Designated Staff may add to the Offers, on behalf of the Reserve, additional quota units, at the PCA, in an amount not to exceed the deficiency, or alternatively may deem the successful bidders to have Bid, at the PCA, a percentage of their Bid based on the ratio of the quota units comprising the successful Offers to the quota units comprising the successful Bids, in which case, the bidder shall be entitled to a refund of that portion of the administration fee submitted by the bidder in excess of the fee payable under the deemed Bid.

8(12)(b) Upon the clearing of a Retirement and Quota Reallocation Program, if it is determined by the Designated Staff that, at the PCA, the cumulative volume of quota units in the Bids is less than the cumulative volume of quota units in the Offers, the Designated Staff may:

(i) bid, on behalf of the Reserve, at the PCA, a number of quota units equal to the deficiency, or

(ii) cancel the Program.

8(13) Following the conduct of a Retirement and Quota Reallocation Program, the Designated Staff shall report to the Board the number of Offers received, particulars of the Offers as set out in subsection 8(5), the number of Bids received, the number of quota units and the amounts bid or offered in each Bid or Offer, together with the PCA and particulars of the successful Bids and successful Offers. 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 the Retirement and Quota Reallocation Program, the Board may pass a resolution to accept such results.

Following the acceptance of the results of a Retirement and Quota Reallocation Program, the Board will pass a resolution to allot quotas to successful bidders and to cancel quota of successful offerors in order to implement such results.

Such allotment and cancellation of quotas will be effective as of the first day of the month following the month in which the Retirement and Quota Reallocation Program was conducted.

8(14) Following the Board'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, and if the Bid or the Offer was successful, the effective date of the allotment or cancellation.

8(15) All funds submitted by unsuccessful bidders as proposed administration fees will be returned to such bidder.

Limits on bids and offers

9(1) 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 five (5) years of such successful Bid.

9(2) No Bid, when aggregated with any other Bids submitted by that bidder on that Reallocation Day, 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.

An offeror shall not be allowed to be a bidder on the same Retirement and Quota Reallocation Program and only the Offer will be processed.

Retirement fund

10(1) All administration fees paid to the Board by successful bidders will be allocated to the Retirement Fund.

10(2) All retirement payments made by the Board to successful offerors will be paid from the Retirement Fund.

Allocation from the Reserve

11 The Board may, from time to time, allocate quota units from the Reserve to registered producers in equal numbers (except to those registered producers who have asked the Board not to increase the pullet production quota allotted to such producers as provided in subsection 7(3) of this Order), and further provided that the quota units allocated to a registered producer shall not be increased above maximum quota.

Limitation re new producers

12 In the event a person is allotted a pullet production quota (the "initial allotment") and becomes a registered producer pursuant to an application to the Board, such person shall not be entitled to submit an Offer which would result in the remaining quota allotted to that person being reduced below the initial allotment to such person for a minimum of five years from the date of such initial allotment and thereafter the general limitations in section 9 will continue to apply to such person.

Information

13 The Board will make available to each registered producer, on request and in a form approved by the Manitoba Council, within 10 days following such Board approval, the results of the Retirement and Quota Reallocation Program.

January 2, 2002

MANITOBA EGG PRODUCERS:

Kurt Siemens
Chairman

Penny Kelly
Secretary

APPROVED

April 4, 2002

MANITOBA FARM PRODUCTS
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The Queen's Printer
for the Province of Manitoba