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

Root Crop Quota Order*

Regulation 12/95
Registered February 7, 1995

CONTENTS

Section

PART I
DEFINITIONS

- 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
ANNUAL MARKETING QUOTAS

- 5 Determination of annual marketing quotas
6 Notice of annual marketing quotas
7 New and increased annual marketing quotas
8 Annual marketing quota not to exceed maximum quota

PART IV
DELIVERY SYSTEM

- 9 Delivery periods
10 Delivery quotas
11 Other delivery quotas

* This order is made under the *Manitoba Vegetable Producers' Marketing Plan*, Manitoba Regulation 249/87 R and is Order No. 4, 1994 of Peak Vegetable Sales.

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: 84/95; 131/95.

- 12 Notice prior to delivery
- 13 Delivery order required
- 14 Deletion from delivery order list
- 15 Discontinuing deliveries re inferior quality
- 16 Resumption of accepting delivery orders
- 17 Pro-rating of root crop deliveries
- 18 Non-quota delivery period and open delivery period
- 19 Termination of non-quota or open delivery period
- 20 Non-quota deliveries not counted as annual marketing quota
- 21 Surplus to quota deliveries

PART V
REDUCTION OR CANCELLATION OF ANNUAL MARKETING QUOTAS

- 22 Force majeure and stand downs
- 23 Reduction of annual marketing quotas for undermarketings
- 24 Cancellation of annual marketing quotas
- 25 Other reduction or cancellation of annual marketing quotas

PART VI
OTHER REDUCTION OR CANCELLATION OF QUOTA

- 26 Cancellation of quotas on death, winding up, etc.
- 27 Cancellation of quotas on cancellation of registration
- 28 Other reduction or cancellation of quota

PART VII
OWNERSHIP OF QUOTAS

- 29 Quotas belong to board
- 30 Quota non-transferable by producer

PART VIII
MARKETING PROHIBITIONS

- 31 No marketings without a quota
- 32 No marketings in excess of annual marketing quota
- 33 No marketings in excess of delivery quota

PART IX
GENERAL

- 34 Unacceptable quality
- 35 Effect of sharing
- 36 Acquisitions of interests in excess of maximum quota prohibited
- 37 Exception for financial assistance to children
- 38 Step-transactions prohibited

PART X
CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

- 39 Special definitions
- 40 Transfers by a substantial holder
- 41 Grounds for non-waiver re transfer
- 42 Bankruptcy or receivership of a controlling party
- 43 False or misleading information re transfers
- 44 Reduction of requirements re certain transfers

PART XI
ASSOCIATION OF REGISTERED PRODUCERS

- 45 Deemed association
- 46 Association of registered producers
- 47 Grounds for non-waiver re association
- 48 False or misleading information re association

PART XII
RE-ALLOTMENT OF ANNUAL MARKETING QUOTA

- 49 Complete farm sales
- 50 Lease of complete farm
- 51 Bankruptcy or receivership of a registered producer
- 52 Re-allotment of quota and dispensing with financial information on death, disability, or retirement
- 53 Re-allotment of quota and dispensing with financial information on establishment of family partnership
- 54 Re-allotment of quota and dispensing with financial information on establishment of a corporation
- 55 Partial and complete re-allotment of quota to related persons
- 56 Re-allotment and maximum quota

PART XIII
QUOTA AND CERTIFIED LAND

- 57 Quota to be allotted for certified land
- 58 No application for change of certified land following re-allotment or change in beneficial ownership for 5 years
- 59 Exception from 5 year moratorium on applications
- 60 Examination of certified land, storage facilities and inventory

PART XIV
THE PLAN AND NON-APPLICATION

- 61 Non-application re direct consumer sales
- 62 Non-application re root crops of small root crop producer
- 63 Small root crop producer deliveries
- 64 Direct pricing sales
- 65 Exemptions re onions
- 66 Non-application re multiplier onions and onion sets
- 67 Further non-application
- 68 Repeal

PART I
DEFINITIONS

Definitions

1 In this Order

"annual marketing quota" means the number of tons of a type of root crop that a registered producer is authorized to market during a crop year;

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

"delivery period" for a type of root crop 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 root crop, provided that such producer has complied with notification procedures of the Board and has suitable root crop available for delivery;

"delivery quota" for a type of root crop means the amount of root crop of that type that a registered producer is entitled to market during a delivery period;

"maximum quota" means in respect of

- (a) rutabagas - 800 tons,
- (b) carrots - 3,000 tons,
- (c) parsnips - 350 tons,
- (d) Spanish-type onions - no maximum,
- (e) cooking onions - 2,000 tons, or
- (f) pickling onions - no maximum in a crop year;

"open delivery period" for a type of root crop means a portion of a delivery period during which time each registered producer may market to this Board a portion of that producer's root crops 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 root crops of that type;

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

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

"registered producer" means a registered root crop producer;

"root crops" includes the following:

- (a) rutabagas,
- (b) carrots,
- (c) parsnips,
- (d) onions;

"type" or **"type of root crop"** means

- (a) rutabagas,
- (b) carrots,
- (c) parsnips,
- (d) yellow Spanish-type onions,
- (e) cooking onions, or
- (f) pickling onions.

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 root crops 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 a type of root crop shall make application to the Board for the allotment of a quota for each type of root crop 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. 131/95

3(2) Any registered producer wishing an increase in an annual root crop quota for a type of root crop 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 type of root crop for that crop year, such waiting list shall be cancelled.

M.R. 131/95

Waiting list for allocation of quota

4 Any individual wishing to engage in the marketing of a type of root crop shall make application to the Board for the allotment of an annual marketing quota for that type. 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 of that type.

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. 84/95

PART III

ANNUAL MARKETING QUOTAS

Determination of annual marketing quotas

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

Notice of annual marketing quotas

6 The Board will advise each registered producer of the annual marketing 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. 84/95

New and increased annual marketing quotas

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

(a) by allotting approximately 1/3 of the Shortfall to applicants who have not previously been allotted an annual marketing quota for that type of root crop and who have applied for registration and an annual marketing quota for that type of root crop. Such annual marketing 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 marketing quota under this provision in excess of

- (i) 100 tons for rutabagas,
- (ii) 100 tons for carrots,
- (iii) 50 tons for parsnips,
- (iv) 100 tons for yellow Spanish-type onions,
- (v) 100 tons for cooking onions, and
- (vi) 5 tons for pickling onions;

(b) by allotting approximately 1/3 of the Shortfall by increasing the annual marketing quota for that type of root crop of each registered producer who has been allotted an annual marketing quota for that type of root crop which annual marketing quota for that type is less than the average marketing quota of registered producers of that type (provided such producer has applied for an increase in the annual marketing quota allotted to such producer, and further provided that the Board is satisfied that such producer has or will have marketed an amount of root crop of that type during the current crop year equal to 90% of the annual marketing quota allotted to such producer for that type), to bring each such registered producer up to a level where the annual marketing quota allotted to such producer is equal to the average size of annual marketing quota issued for that type of root crop (catastrophes excepted); and

(c) by allotting the balance of such Shortfall as annual marketing quota equally among registered producers who marketed root crops of that type in the previous crop year and who applied for increases in the annual marketing quota allotted to such producer of that type. No producer shall be entitled to an increase in an annual marketing quota allotted to such producer for any type under this provision unless the Board is satisfied that producer has marketed or will be able to market an amount of root crop of that type equal to at least 90% of the annual marketing quota allotted to such producer for such type of root crop during such crop year (catastrophes excepted).

M.R. 84/95

Annual marketing quota not to exceed maximum quota

8 Notwithstanding anything set out in section 7, the aggregate annual marketing quota allotted to a registered producer shall not exceed maximum quota.

PART IV

DELIVERY SYSTEM

Delivery periods

9 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 root crop. If a delivery period for a type of root crop does not coincide with the pool period for that type of root crop, the Board will attempt to ensure that each eligible registered producer has an opportunity to deliver a proportionate share of that producer's delivery quota in each pool period.

Delivery quotas

10 Delivery quotas for each type of root crop (except pickling onions) will be allotted to registered producers based on the following scale:

(a) registered producers who have been allotted an annual marketing quota for that type of root crop of less than 50 tons of such type shall be allotted a delivery quota for each delivery period of 7 tons of that type plus 1/2 ton of that type for each 10 tons of that type of annual marketing quota allotted to that producer for that type of root crop;

(b) registered producers who have been allotted an annual marketing quota for that type of root crop of 50 tons or more, but not more than 100 tons of such type shall be allotted a delivery quota for each delivery period of 6 tons of that type plus 1/2 ton of that type for each 10 tons of that type of annual marketing quota allotted to that producer for that type of root crop; and

(c) registered producers who have been allotted an annual marketing quota for that type of root crop of over 100 tons of such type shall be allotted a delivery quota for each delivery period of 5 tons of that type plus 1/2 ton of that type for each 10 tons of that type of annual marketing marketing quota allotted to that producer for that type of root crop.

Other delivery quotas

11 Delivery quotas for pickling onions will be allotted to registered producers who have been allotted an annual marketing quota for pickling onions based upon the anticipated market demand for pickling onions during a delivery period, and the proportionate share that each producer's annual marketing quota for pickling onions bears to the total of all annual marketing quotas for pickling onions allotted by the Board.

Notice prior to delivery

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

Delivery order required

13 Each registered producer must obtain a delivery order or delivery order number from the Board office before delivering root crop to the Board.

Deletion from delivery order list

14 A registered producer will be removed from the current delivery order list for a type of root crop 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. 131/95

Discontinuing deliveries re inferior quality

15 A registered producer whose root crops, 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 root crops of that type 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 root crops 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 producer is removed from a delivery order list for that type of root crop for any reason, such producer will not be placed on the delivery order list for that type of root crop 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 for that type of root crop. The onus of giving notice to this Board of such desire to resume delivery shall be upon the producer.

Pro-rating of root crop deliveries

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

Non-quota delivery period and open delivery period

18 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, or class of a type of root crop, without necessarily extending such period to other grades, qualities, classes or types of root crop.

Termination of non-quota or open delivery period

19 Before terminating a non-quota delivery period or an open delivery period for a type of root crop, the Board will endeavour to give at least one full business day's notice of such termination to registered 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 producer shall be entitled to deliver more than the average amount of that type which such producer delivered each day such producer delivered that type to the Board during such non-quota delivery period or open delivery period.

Non-quota deliveries not counted as annual marketing quota

20 Except for the purpose of calculating the amount of any type of root crop marketed by a producer in a crop year under Part VII hereof, deliveries made during a non-quota delivery period with the permission of the Board will not be considered part of, or entered against the producer's annual marketing quota for that crop year.

Surplus to quota deliveries

21 Once all registered producers have been given an opportunity to deliver a quantity of root crop 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 root crop. During such non-quota delivery period each registered producer who has been allotted an annual marketing quota for that type of root crop will be entitled to market an equal quantity of root crop of that type.

PART V

REDUCTION OR CANCELLATION OF ANNUAL MARKETING QUOTAS

Force majeure and stand downs

22 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 root crop 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 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 root crop, such notification must be provided by the Board no later than June 30th of the year following the year in which such root crop was harvested.

M.R. 131/95

Reduction of annual marketing quotas for undermarketings

23 When a registered producer's annual marketings of any type of root crop in a crop year are less than 85% of the annual marketing quota for that type allotted to that producer for that crop year, the annual marketing quota for that type allotted to that producer for that next crop year shall be reduced by 1/3 of the difference between the annual marketing 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. 131/95

Cancellation of annual marketing quotas

24 Where a registered producer has not marketed root crops of a type to or through this Board for a period of 2 consecutive crop years, the annual marketing quota allotted to that producer for that type of root crop shall be automatically cancelled.

Other reduction or cancellation of annual marketing quotas

25 In the event a registered producer is allotted new or increased annual marketing quota for any type of root crop in a crop year and, in the opinion of the Board, fails to produce sufficient root crop of that type in that crop year to enable such producer to market an amount of that type of root crop equal to the annual marketing quota allotted to that producer of that type, such new or increased portion of the annual marketing quota allotted to that producer for that type of root crop may be cancelled by the Board.

PART VI

OTHER REDUCTION OR CANCELLATION OF QUOTA

Cancellation of quotas on death, winding up, etc.

26 The Board may cancel an annual marketing 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

27 The annual marketing 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

28 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 root crops 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 root crops grown and harvested by such producer, or

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

Regulation continues on page 11.

(iii) obligate such producer with respect to the marketing of root crops 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 root crop industry.

PART VII

OWNERSHIP OF QUOTAS

Quotas belong to board

29 Annual marketing quotas belong to the Board.

Quota non-transferable by producer

30 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

31 Unless otherwise directed by this Board, no person who grows or harvests root crops shall market a type of root crop unless an annual marketing quota has been allotted to such person in respect of that type of root crop.

No marketings in excess of annual marketing quota

32 Unless otherwise directed by this Board, no person who grows or harvests root crops shall market a type of root crop in any crop year in excess of the annual marketing quota for that type of root crop allocated to such person for that crop year.

No marketings in excess of delivery quota

33 Unless otherwise directed by this Board, no person who grows or harvests root crops shall market a type of root crop in any delivery period in excess of the delivery quota for that type of root crop allocated to such person for that delivery period.

PART IX

GENERAL

Unacceptable quality

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

Effect of sharing

35 Where two or more persons grow or harvest root crops 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 root crops 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 root crops may be treated by the Board as being the land on which the other or others grow or harvest root crops.

Acquisitions of interests in excess of maximum quota prohibited

36 Notwithstanding anything contained in this Order, but subject to section 37, 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 financial assistance to children

37 Notwithstanding section 36, 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 root crop production business of the child or children will be completely separate from the root crop 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 root crop 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

38 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

39 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 beneficial rights.

Transfers by a substantial holder

40 In the event all or part of the beneficial or legal ownership of an interest 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 annual marketing 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.

Grounds for non-waiver re transfer

41 The provisions of section 40 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 annual marketing quota(s) for a type of root crop which aggregate in excess of maximum quota for that type of root crop.

Bankruptcy or receivership of a controlling party

42 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

43 In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration is false or misleading, or that any conditions established by the Board in waiving the provisions of section 40 or section 42 have not been met by the parties, the Board may cancel or reduce the annual marketing quotas of the registered producer whether or not the provisions of section 40 or section 42 have been previously waived by the Board.

Reduction of requirements re certain transfers

44 The Board may establish policies from time to time reducing its requirements under section 40

(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

45 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

46 In the event that a registered producer becomes associated with another registered producer, the Board may cancel or reduce the annual marketing 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, 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.

Grounds for non-waiver re association

47 The provisions of section 46 will not be waived by 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 annual marketing quota(s) for that type of root crop which aggregate in excess of maximum quota for that type of root crop.

False or misleading information re association

48 In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration is false or misleading, or that any conditions established by the Board in waiving the provisions of section 46 have not been met by the parties, the Board may cancel or reduce the annual marketing quotas of the registered producers whether or not the provisions of section 46 have been previously waived by the Board.

PART XII

RE-ALLOTMENT OF ANNUAL MARKETING QUOTA

Complete farm sales

49 In the event a registered producer sells the land, buildings and equipment used by such producer in growing, harvesting and marketing a type of root crop, 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 annual marketing quota and that no more than fair market value has been paid for such assets.

In applying this provision 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 applicant(s).

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 a Statutory Declaration or any requested Certificate is false or misleading, the Board may reduce or cancel the annual marketing quota in question, whether or not the annual marketing quota was re-allotted.

Lease of complete farm

50 In the event a registered producer leases or licenses the land, buildings and equipment used by such producer in growing, harvesting and marketing root crops, 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 annual marketing quota 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 that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration or any requested Certificate is false or misleading, the Board may reduce or cancel the quotas in question, whether or not the annual marketing quota was 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

51 Notwithstanding clause 28(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

52 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 root crop 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 root crops; or

(b) who becomes the owner of the root crop 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

53 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 root crop 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 root crops; or

(b) which becomes the owner of the root crop 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

54 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 root crop 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 root crops; or

(b) which becomes the owner of the root crop 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

55 The Board 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 who is not a registered producer (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

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

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

(g) the Board is satisfied that no value has been attributed to such quotas.

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein and in the event that the Board has reasonable grounds for believing that any information provided in a 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.

Re-allotment and maximum quota

56 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 XIII

QUOTA AND CERTIFIED LAND

Quota to be allotted for certified land

57(1) In allotting a quota to a registered producer, the Board may specify the land on which the producer's root crops, or any portion of such root crops, must be grown and harvested.

57(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.

57(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 certified land following re-allotment or change in beneficial ownership for 5 years

58 In the event the Board re-allots the quotas allotted to a producer pursuant to Part XII, or approves the change in beneficial ownership of a registered producer pursuant to Part X, or approves an association of persons who are registered producers pursuant to the provisions of Part XI, 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 quotas from the certified land specified for use in connection with such quotas at the time of re-allotment or approval to other land for a period of at least 5 years following such re-allotment, change, or association.

Exception from 5 year moratorium on applications

59 The Board may exempt a person from the provisions of section 58 with respect to a transfer or change of the nature outlines in section 44, or with respect to the re-allotment of quotas pursuant to sections 52 and 54 inclusive.

Examination of certified land, storage facilities and inventory

60 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

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

Non-application re root crops of small root crop producer

62 This Order does not apply to the marketing of root crops of a type grown by a person who is a small root crop producer.

Small root crop producer deliveries

63 Notwithstanding anything contained in this Order, a small root crop producer, who has notified the Board in writing on or before June 30th in each year of that producer's desire to market root crops of the type for which that producer is a small root crop producer through the delivery system of the Board, shall be entitled to market a quantity of that type of root crop grown by such producer through the delivery system operated by the Board during the following fiscal year of the Board, up to the following maximum:

- (a) Spanish-yellow: 400-50 pound bags;
- (b) cooking onions: 600-50 pound bags;
- (c) pickling onions: 150-25 pound bags;
- (d) parsnips: 300-50 pound bags;
- (e) carrots: 600-50 pound bags; or
- (f) rutabagas: 600-50 pound bags;

subject to acceptable quality, condition and packaging and to 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

64 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 root crops by this Board in market areas not traditionally supplied by root crop producers or for the purpose of dealing with special temporary marketing circumstances.

Exemptions re onions

65 As provided in the Plan, green onions are exempt from this Order.

Non-application re multiplier onions and onion sets

66 This Order does not apply to multiplier onions, onion sets, red Spanish-type onions or white Spanish-type onions.

Further non-application

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

Repeal
68 Manitoba Regulation 41/82 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

The Queen's Printer
for the Province of Manitoba