



Province of Alberta

## MARKETING OF AGRICULTURAL PRODUCTS ACT

# TURKEY MARKETING REGULATION

### **Alberta Regulation 113/1998**

With amendments up to and including Alberta Regulation 135/2015

### Office Consolidation

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Alberta Queen's Printer  
7<sup>th</sup> Floor, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

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(Consolidated up to 135/2015)

**ALBERTA REGULATION 113/98**

**Marketing of Agricultural Products Act**

**TURKEY MARKETING REGULATION**

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**Definitions**

**1** In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (b) “base quota” means the quota for any category of turkey that was originally allocated to a producer on that producer’s first application to the Board for an allocation of quota, as amended from year to year;
- (c) “Board” means the Alberta Turkey Producers;
- (d) “category” means category within the meaning of the *Turkey Producers Marketing Plan Regulation* (AR 259/97);
- (e) “consumer” means a person who purchases turkey for consumption and not for resale;
- (f) “Council” means the Alberta Agricultural Products Marketing Council;
- (g) “family”, in respect of a person, means the person’s husband, wife, adult interdependent partner, father, mother, son, daughter, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, grandfather and grandmother;
- (g.1) repealed AR 135/2015 s2;
- (h) “hatcheryman” means a person who holds a licence authorizing that person to distribute, import, export and sell turkey poults to a producer;
- (i) “heavy breed” means a category of turkey classified by the Board as a heavy breed under the *Turkey Producers Plan Regulation* (AR 259/97);
- (j) “light breed” means a category of turkey classified by the Board as a light breed under the *Turkey Producers Plan Regulation* (AR 259/97);
- (k) “mature” means a category of turkey classified by the Board as mature under the *Turkey Producers Plan Regulation* (AR 259/97);
- (k.1) “On-Farm Program” means
  - (i) the on-farm food safety program as approved or varied from time to time by the Canadian Food Inspection Agency,
  - (ii) the Flock Care Program as approved or varied from time to time by the Turkey Farmers of Canada, or

- (iii) any other program directed towards food safety as approved by the Board;
- (l) “period” means a subset of continuous months based on either a quota or calendar year, as established by the Board;
- (m) “periodic production” means marketing of a specified category of quota in any of the periods established by the Board;
- (n) “person” means a person as defined in the *Interpretation Act* and includes
  - (i) a partnership as defined in the *Partnership Act*;
  - (ii) any unincorporated organization that is not a partnership referred to in subclause (i);
  - (iii) any group of individuals that is carrying on an activity for a common purpose and is neither a partnership referred to in subclause (i) nor an unincorporated organization referred to in subclause (ii);
- (o) “Plan” means the Turkey Producers Plan under the *Turkey Producers Plan Regulation* (AR 259/97);
- (p) “processor” means a person who holds a licence authorizing that person to process turkeys;
- (q) “producer” means a person who
  - (i) holds a licence authorizing that person to produce turkeys,
  - (ii) has been allocated a quota or a permit or both, or alternatively is a lessee during a calendar year or a period, and
  - (iii) owns and operates a production facility in Alberta or leases and operates a production facility in Alberta on a basis whereby that person receives the revenue from the production facility;
- (r) “production facility” means the buildings and improvements in which turkeys are produced and the land on which those buildings and improvements are located;
- (s) “quota” means the maximum live weight in kilograms of any category of turkey that a producer is authorized to market in a quota year or a period and is

- (i) the product of the base quota of that category of turkey allocated to the producer and the percentage established by the Board for that quota year or period,
  - (ii) plus any further production authorized by the Board for that quota year or period, and
  - (iii) less any reduction in production as ordered by the Board for that quota year or period;
- (s.1) “quota year” means a 12-month period of time established annually by the Board;
- (t) “turkey” means any turkey, male or female, live or slaughtered, of any size and includes any part of any turkey.

AR 113/98 s1;127/2003;102/2013;135/2015

### **Powers of the Board**

#### **2** The Board may

- (a) issue or renew a licence;
- (b) refuse to issue or renew a licence;
- (c) suspend or cancel a licence;
- (d) issue a permit;
- (e) allocate, transfer, reduce or cancel a quota or a base quota;
- (f) determine the quota that may be marketed by producers in a calendar year or a period and provide for periodic production;
- (g) set minimum prices to be paid to producers for any category of turkey;
- (h) collect service charges, licence fees and levies;
- (i) ensure a continuous supply of turkeys in Alberta;
- (j) take any action necessary to give effect to this Regulation.

AR 113/98 s2;276/2002

### **Licence**

**3(1)** Subject to subsection (2), no person may engage in the hatching, producing, processing or marketing of turkeys unless that person is the holder of a licence authorizing that activity.

**(2)** This Regulation does not apply to a person who produces turkeys if

- (a) the person is ordinarily resident on the land on which the production facility in which the turkeys are produced is situated,
- (b) the person produces not more than 300 turkeys in a calendar year on the land on which the person is ordinarily resident, and
- (c) the turkeys are
  - (i) consumed or intended to be consumed by the person or the person's family, including the person's adult interdependent partner, or
  - (ii) sold or intended to be sold to consumers by the person
    - (A) from the land referred to in clause (a),
    - (B) from land that is adjacent to the land referred to in clause (a), or
    - (C) from a stall at a public market.

AR 113/98 s3;127/2003

#### **Application for licence**

**4(1)** A person may apply to the Board for one or more of the following licences:

- (a) a licence to operate as a hatcheryman;
- (b) a licence to operate as a producer;
- (c) a licence to operate as a processor.

**(2)** A person who engages in the hatching or processing, or both, of turkeys shall obtain a licence for each hatchery or processing plant so operated.

**(3)** A person who operates more than one of the following shall obtain a licence for each operation the person operates:

- (a) a hatchery;
- (b) a production facility;
- (c) a processing plant.

- (4) A licence expires on December 31 of the year in which it is issued.
- (5) A licence is not transferable.
- (6) The holder of a licence shall comply with any directions given from time to time by the Board relating to the activity authorized by the licence.

**Issue, renewal or refusal of licence**

- 5(1) The Board shall consider each application for a licence.
- (2) Subject to subsection (4), the Board shall issue a licence and shall record the name of the licence holder in a register kept for that purpose.
- (3) Subject to subsection (4), the Board shall annually before January 1 renew a licence issued under subsection (2).
- (4) The Board may refuse to issue or renew a licence if the applicant
  - (a) lacks, in the Board's opinion, the experience, equipment or financial responsibility to properly engage in the activity to which the application relates,
  - (b) contravenes the Act, the Plan, this Regulation or an order or direction of the Council or the Board, or
  - (c) fails to comply with the requirements of a On-Farm Program.
- (5) The Board shall serve on the applicant a copy of its decision under this section.

AR 113/98 s5;102/2013;135/2015

**Suspension or cancellation of licence**

- 6(1) The Board may suspend or cancel a licence for any reason the Board considers appropriate.
- (2) If the Board suspends or cancels a licence, it shall forthwith give notice to the person to whom the licence was issued of the suspension or cancellation.
- (3) If the Board suspends or cancels a licence, the person to whom the licence was issued
  - (a) shall, on receiving notice of the suspension or cancellation, immediately cease engaging in the activity that was authorized by the licence, and



- (b) may apply to the Board for an order staying the suspension or cancellation pending the determination of an appeal under Part 5 of the Act.

**(4)** Notwithstanding subsection (3)(a), where the Board is of the opinion that a producer has failed to comply with any of the requirements of the On-Farm Program, the Board may choose not to suspend that producer's quota if the producer leases or has leased the producer's quota to another producer.

AR 113/98 s6;276/2002;102/2013;135/2015

#### **Duty to keep records**

**7(1)** The holder of a licence shall maintain a complete and accurate record of all matters relating to the activity authorized by the licence, including any of the following records that are pertinent to the activity authorized by the licence:

- (a) records of the placement of turkey poults by a hatcheryman or producer, including the number of turkey poults placed;
- (b) invoices showing the number of turkey poults purchased by a producer;
- (c) transportation records;
- (d) processor receiving records;
- (e) producer payment records;
- (f) grading, trimming or other processing records;
- (g) records relating to the producer's compliance with the requirements of the On-Farm Program.

**(2)** The holder of a licence shall retain the records required to be kept under subsection (1) for not less than one calendar year following the calendar year to which the records relate.

**(3)** A producer shall maintain complete and accurate mortality records for each flock of turkeys produced.

**(4)** A producer shall retain mortality records for at least 12 months after shipment of the flock to which the records relate.

**(5)** The holder of a licence shall make available to the Board or a duly authorized representative of the Board during ordinary business hours the records maintained in accordance with this section.

(6) The holder of a licence shall on the request of the Board forthwith provide any additional information the Board requires with respect to any records kept or required to be kept under this section.

AR 113/98 s7;276/2002;102/2013;135/2015

**Duty to provide forms to Board**

**8(1)** A hatcheryman, or a producer who receives turkey poults from outside Alberta, shall prepare at the end of each week a form prescribed by the Board and shall forward the form to the Board in time to reach the Board office not later than Wednesday of the week following the week in which a delivery or receipt of turkey poults occurred.

(2) A processor shall prepare at the end of each week in which turkeys are purchased a form prescribed by the Board and shall forward the form to the Board in time to reach the Board office not later than Wednesday of the week following the week in which a purchase of turkeys occurred.

(3) A processor shall file with the Board, on receiving a request by the Board to do so, an estimate of the weight of turkeys the processor requires for the period specified by the Board.

(4) A producer who markets turkeys to persons other than licensed processors shall

- (a) prepare at the end of each week in which turkeys were marketed a record of the marketing by completing a form prescribed by the Board, and
- (b) forward the completed form to the Board so that the form will be received by the Board not later than Wednesday of the week following the week in which the turkeys were marketed.

(5) Where turkeys are processed on a fee for service basis by a processor, the processor shall

- (a) ensure that a record of the processing is recorded by means of completing a form prescribed by the Board, and
- (b) forward the completed form to the Board so that the form will be received by the Board within 15 days from the day that the turkeys were processed.

**Deemed production, etc.**

**9(1)** If records are not available to the Board with respect to a producer, the producer is deemed

- (a) to have produced the same number of turkeys as there were turkey poults delivered to the producer, and
- (b) to have marketed all the turkey poults delivered to the producer within 6 months of the delivery.

(2) The weight of the turkeys deemed to have been produced pursuant to subsection (1)(a) is deemed to equal the average industry weight of the category of turkeys marketed in the province during the previous calendar year multiplied by the current number of turkey poults delivered to the producer.

(3) The deemed weight of the turkeys that are deemed to have been marketed under this section may, at the discretion of the Board, be adjusted to reflect the age of the turkeys.

#### **Service charge**

**10(1)** A processor who purchases turkeys from a producer shall

- (a) deduct from the purchase price payable to the producer a service charge in the amount set by the Board in an order under subsection (4), and
- (b) forward to the Board the service charge, with an accounting for the service charge on a form prescribed by the Board, in time to reach the Board office not later than Wednesday of the week following the week in which the service charge was deducted.

(2) A producer who processes turkeys shall

- (a) pay to the Board a service charge in the amount set by the Board in an order under subsection (4), and
- (b) forward to the Board the service charge, with an accounting for the service charge, in time to reach the Board office not later than Wednesday of the week following the week in which the turkeys are processed.

(3) Interest at the rate prescribed by the Board in an order under subsection (4) is payable on unpaid service charges.

(4) The Board shall, by order, from time to time prescribe

- (a) the amount of the service charge for the purposes of subsections (1) and (2), which must be an amount per kilogram of live weight of turkey purchased or processed, as the case may be, and
- (b) the interest rate for the purposes of subsection (3).

**(5)** Notwithstanding subsections (1), (2) and (3),

- (a) until the Board prescribes a different amount under subsection (4), the service charge for the purposes of subsections (1) and (2) is \$0.038 per kilogram of live weight of turkeys purchased or processed, and
- (b) until the Board prescribes a different interest rate under subsection (4), the interest rate for the purposes of subsection (2) is 12% per year.

AR 113/98 s10;96/99;81/2002;276/2002

#### **Use of money**

**11** The Board may use service charges and other money paid to it for the purpose of paying the expenses of the Board and administering the Plan and this Regulation.

#### **Quota**

**12(1)** The Board may establish a separate quota allocation for each category of turkey and may establish a periodic quota to provide for production of any category of turkey in a period.

**(2)** If the Board wishes to vary the production of a category of turkey to accommodate anticipated demand for a calendar year or a period, the Board may vary the percentage of quota for that category for the calendar year or the period.

**(3)** The Board may direct producers who have been allocated quotas to market part or all of their quotas at different weights specified by the Board or in different periods specified by the Board, or both.

**(4)** A producer's base quota must not be reduced as a result of a direction given by the Board pursuant to subsection (3).

**(4.1)** The Board may direct producers who have been allocated quotas to market part or all of their quotas to specific processors.

**(4.2)** If the Board directs producers to market part or all of their quotas to specific processors under subsection (4.1), the Board must establish rules, procedures and policies respecting the Board's directions to producers under subsection (4.1) and must review the rules, procedures and policies established under this subsection annually.

**(5) to (10)** Repealed AR 276/2002 s6.

AR 113/98 s12;276/2002;51/2008

**Base quota increases**

**12.1(1)** When the Board considers that general marketing conditions warrant a permanent increase in base quota, that increase must be allocated by the Board in accordance with this section.

**(2)** The Board shall ensure that

- (a) a percentage of the permanent increase in base quota, as determined by the Board, will be offered for sale at fair market value to existing holders of base quota, and
- (b) the remainder of the permanent increase in base quota must be allocated by the Board by auction in accordance with this section.

**(3)** A producer and any person who is eligible to receive a licence as a producer may participate in the auction.

**(4)** Any person wishing to participate in the auction must provide evidence to the Board, in the form specified by the Board, that satisfies the Board as to the person's financial capability to pay the quota allocation fee.

**(5)** The amount of the allocation fee paid by a person acquiring quota units by auction pursuant to this section must be determined by the amount of the successful bid made by that person for the block of quota units being offered.

**(6)** The Board may allocate quota to the successful bidders in accordance with their bids if the Board is satisfied that the bidders have complied with this Regulation.

**(7)** The Board may establish procedures for the conduct of an auction.

AR 276/2002 s7;102/2013

**13** Repealed AR 276/2002 s8.

**Transfer, etc. of quota**

**14(1)** In this section, "legal representative" means

- (a) the executor, administrator or trustee of the estate of a deceased producer, or
- (b) the guardian of the estate of a minor.

**(2)** A base quota may be allocated or transferred only to

- (a) a Canadian citizen or a person lawfully admitted into Canada for permanent residence,
- (b) subject to subsection (3), a corporation in which the majority of the shares are owned by Canadian citizens or persons lawfully admitted into Canada for permanent residence, or
- (c) subject to subsection (3), a partnership in which the majority of the partners with beneficial interests are Canadian citizens or persons lawfully admitted into Canada for permanent residence.

(3) The Board may exempt a corporation or partnership from the requirements of subsection (2)(b) or (c) if, in the opinion of the Board, extenuating circumstances exist that warrant the Board making the exemption.

(4) Where a producer who holds base quota is unable to carry on the producer's agricultural operation due to mental or physical infirmity and

- (a) a trustee is appointed under the *Dependent Adults Act* or other legislation, or
- (b) an attorney is appointed by the producer pursuant to a power of attorney or an enduring power of attorney,

the trustee or attorney may act on the producer's behalf in carrying out all the production and marketing of the producer's turkeys if the trustee or attorney

- (c) files an application with the Board showing proof that the person is the producer's trustee or attorney, and
- (d) satisfies the Board that the trustee or attorney
  - (i) has the experience, equipment and financial responsibility to properly engage in the production and marketing of turkeys, and
  - (ii) has not contravened the Act, the Plan, this Regulation or an order or direction of the Council or the Board.

(5) When a producer holds base quota at the time of the producer's death, that producer's legal representative is entitled to act on the deceased producer's behalf in carrying out all production and marketing for the marketing period in which the producer died or for such longer period as may be approved by the Board.

**(6)** Where a producer holds base quota at the time of the producer's death and the ownership of the production facility becomes vested in one or more persons by virtue of a joint tenancy or a will, intestacy or a court order, the Board may transfer the base quota to that person or those persons on

- (a) proof being filed with the Board showing ownership of the production facility and the means by which ownership was acquired, and
- (b) the Board's being satisfied that the person or persons
  - (i) have the experience, equipment and financial responsibility to properly engage in the production and marketing of turkeys, and
  - (ii) have not contravened the Act, the Plan, this Regulation or an order or direction of the Council or the Board.

**(7)** Where the person who acquires ownership of a deceased producer's production facility by virtue of a joint tenancy or a will, intestacy or a court order is a minor, the legal representative of the minor may carry on all the production and marketing of turkeys on behalf of the minor until the minor reaches the age of 18 years, or such further time as prescribed by the Board, on

- (a) an application being filed with the Board showing proof that the person is the minor's legal representative, and
- (b) satisfying the Board that the legal representative
  - (i) has the experience, equipment and financial responsibility to properly engage in the production and marketing of turkeys, and
  - (ii) has not contravened the Act, the Plan, this Regulation or an order or direction of the Council or the Board.

**(8), (9)** Repealed AR 1/2004 s2.

**(10)** For the purpose of determining a person's base quota holdings the following applies:

- (a) an individual's total base quota holding is the sum of
  - (i) the base quota held by that individual,
  - (ii) the proportionate share of any base quota in which that individual has an ownership interest through a

- corporation, a partnership or another unincorporated organization or group of individuals, and
- (iii) any base quota in which the individual has an ownership interest as a lessee of quota;
- (b) the total base quota holding of a corporation, a partnership or another unincorporated organization or group of individuals is the sum of
- (i) the base quota held by that corporation, partnership, unincorporated organization or group of individuals,
  - (ii) the proportionate share of any base quota that the corporation, partnership, unincorporated organization or group of individuals holds through an ownership interest in another corporation, partnership, unincorporated organization or group of individuals, and
  - (iii) any base quota in which the corporation, partnership, unincorporated organization or group of individuals has an ownership interest as a lessee of quota;
- (c) in determining an individual's total base quota holding, the individual's ownership interest in the following shall be disregarded:
- (i) a publicly traded company listed on a recognized stock exchange;
  - (ii) a co-operative that has more than 100 members.

**(11)** The Board may allocate quota to a producer as part of an interprovincial quota transfer policy.

**(12), (13)** Repealed AR 1/2004 s4.

**(14)** Unless otherwise permitted by the Board, a producer to whom base quota is allocated or transferred under this Regulation must commence production of turkeys within 12 months after the date on which the base quota is allocated or transferred.

**(15)** No producer may buy, sell, lease or assign all or any part of a quota or a base quota allocated to the producer without the prior written approval of the Board.

AR 113/98 s14;276/2002;1/2004

#### **Lease of production facility**

**15(1)** If a producer intends to lease a production facility in respect of which a base quota has been allocated and the proposed lessee



wishes to market turkeys, the producer shall apply to the Board for approval of the proposed lease.

(2) An application under subsection (1) must be made prior to the commencement of the lease.

(3) If the Board approves a lease of a production facility under this section, the base quota allocated to the production facility remains registered in the name of the lessor.

(4) The lessee under a lease that is approved by the Board under this section may produce and market turkeys under the authority of the base quota allocated to the lessor.

(5) Repealed AR 276/2002 s10.

(6), (7) Repealed AR 1/2004 s4.

AR 113/98 s15;276/2002;1/2004

#### **Lease of quota**

**16(1)** A producer, with the prior authorization of the Board, may lease all or part of the producer's quota to another producer.

(2) An application to lease quota must

- (a) be made by the proposed lessor,
- (b) be endorsed by the proposed lessee,
- (c) be in the form and contain the information required by the Board, and
- (d) be accompanied by a fee in the amount of \$50.

(3) If the Board grants the authorization, it may make the authorization subject to any terms and conditions it considers appropriate.

(4) The Board may not grant an authorization if

- (a) the proposed lessor has outstanding indebtedness with the Board for service charges or over-marketing penalties,
- (a.1) the proposed lessee has not complied with the requirements of a On-Farm Program,
- (b) repealed AR 1/2004 s4,
- (c) the proposed lessee lacks, in the Board's opinion, the experience, equipment and financial responsibility to

properly engage in the production and marketing of turkeys, or

- (d) the proposed lessee has contravened the Act, the Plan, any regulation made under the Act or an order or direction of the Council or the Board.

AR 113/98 s16;276/2002;1/2004;86/2008;102/2013;  
135/2015

#### **Disposition of production facility**

**17(1)** This section applies only to the disposition of production facilities in respect of which a base quota has been allocated.

**(2)** If a producer intends to sell or assign a production facility in respect of which a base quota has been allocated and the proposed purchaser or assignee wishes to market turkeys, the Board may cancel the base quota of the producer and allocate to the proposed purchaser or assignee a base quota in respect of the production facility.

**(3)** An application to the Board for a transfer of a base quota under this section must be made prior to the completion of the sale or assignment of the production facility but, if approved, the new base quota does not take effect and the old base quota may not be cancelled until the completion of the transaction and the filing of any proof of the completion of the transaction that the Board requires.

**(4)** An application under subsection (3) must be made by the producer who is selling or assigning the production facility and must be accompanied by a transfer fee of \$100.

**(5)** Notwithstanding subsection (4), if there is no change in the beneficial ownership of a production facility in respect of which a base quota has been allocated or if the application is for a transfer of a production facility within a family, including an adult interdependent partner of a person, no transfer fee is payable.

AR 113/98 s17;276/2002;127/2003

#### **Transfer of base quota without production facilities**

**18(1)** This section applies only to the transfer of base quota without the transfer of the production facilities in respect of which the base quota has been allocated.

**(2)** Where

- (a) a producer owns production facilities in respect of which base quota has been allocated, and

- (b) the producer wishes, without transferring those production facilities, to transfer that base quota or a part of that base quota to another person,

the producer may apply to the Board to allocate to the proposed transferee the amount of base quota that the producer wishes to transfer and to accordingly reduce the amount of base quota that will be held by the producer following the transfer.

**(3)** Where a producer wishes to make an application to the Board under subsection (2), the producer must provide to the Board, at least 7 days prior to the meeting of the Board at which the application is to be considered, a completed application and declaration that is satisfactory to the Board.

**(4)** The Board shall not approve a transfer of base quota under this section in the following circumstances:

- (a), (b) repealed AR 1/2004 s4;
- (c) if, in the opinion of the Board, the transferee will not have at the time that the proposed transfer takes place the experience, equipment and financial responsibility to properly engage in the production and marketing of turkeys;
- (d) if the transferee has contravened the Act, the Plan, any regulation made under the Act or any order or direction of the Council or the Board;
- (e) if the transferee or transferor has an outstanding indebtedness with the Board for service charges or over-marketing penalties.

**(5)** If the Board is satisfied that a proposed transfer of quota under this section complies with the requirements of this section, the Board shall approve the application subject to the following conditions being complied with prior to the transfer taking place:

- (a) that the transferee has completed and delivered to the Board a declaration that is satisfactory to the Board;
- (b) that the transferee has acquired the beneficial ownership of a production facility that, in the opinion of the Board, is suitable for the production of turkeys;
- (c) that the transferee has filed with the Board a copy of the certificate of title to the production facilities that shows
  - (i) the current status of the certificate of title, and

- (ii) that the transferee of the quota is the sole beneficial owner of the production facility;
  - (d) that the transferee has provided to the Board the written consent referred to in section 21(4);
  - (e) that the transferee has paid to the Board a transfer fee of \$100.
- (6)** When the Board is satisfied that the requirements of this section have been met, and the conditions described in subsection (5) have been complied with, the Board shall
- (a) amend the base quota allocated to the producer who is the transferor so as to reduce it to reflect the amount of base quota that was transferred to the transferee, and
  - (b) allocate to the transferee the amount of base quota that was transferred from the transferor.

AR 113/98 s18;1/2004

**Assignment of quota**

**19(1)** Where an individual or individuals who own production facilities wish to carry on the marketing of turkeys through a corporation, the Board may transfer the base quota held by the individual or individuals to the corporation if

- (a) all of the shares of the corporation are held by the individual or individuals who own the production facilities, and
- (b) the individual or individuals and the corporation apply jointly to the Board for the transfer.

**(2)** Where a corporation that owns production facilities wishes to carry on the marketing of turkeys through an individual or individuals, the Board may transfer the base quota held by the corporation to the individual or individuals if

- (a) all of the shares of the corporation are held by the individual or individuals to whom the quota is to be transferred, and
- (b) the corporation and the individuals apply jointly to the Board for the transfer.

**(3)** A transfer under this section is conditional on the individual or individuals remaining the only shareholders in the corporation.

(4) A transfer under this section does not affect the right of a mortgagee to register an interest under section 21 or to acquire an interest in base quota under section 22.

**Reduction or cancellation of base quota**

**20(1)** The Board may reduce or cancel a base quota if the producer to whom it is allocated

- (a) fails for 2 successive years or more to market at least 90% of the producer's quota,
- (b) contravenes the Act, this Regulation or an order or direction of the Council or the Board,
- (c) has not used or has voluntarily given up all or part of the producer's base quota,
- (d) has had his licence to produce turkeys suspended or cancelled,
- (e) has made an application under section 17 for a transfer of the base quota,
- (f) has sold, leased or otherwise assigned the premises on which the production facilities exist,
- (g) has, in the case of a lease of premises on which the production facilities exist, ceased to hold a leasehold interest in the premises, or
- (h) has not received the approval of the Board for a change in the ownership of production facilities.

(2) The Board may reduce a base quota allocated to a corporation or partnership if there is a change in the beneficial ownership of any of the shares of the corporation or the interests in the partnership, unless prior approval to the change has been given in writing by the Board.

**Financial interest in production facility**

**21(1)** Any person who has a financial interest by means of a mortgage in a production facility in respect of which a base quota has been allocated may register that interest with the Board in the manner the Board prescribes.

(2) Where a mortgagee registers an interest with the Board under subsection (1), that mortgagee shall at the same time, in a form that is satisfactory to the Board, also register with the Board a written

acknowledgment by the producer of the mortgagee's financial interest in the production facility.

**(3)** If an interest is registered under subsection (1), the Board shall

- (a) immediately notify the producer in whose name the quota is allocated of the registration, and
- (b) notify the mortgagee of any application to transfer all or any part of the quota to which the registration applies.

**(4)** The Board shall not approve the transfer of any quota in respect of which an interest is registered under subsection (1) unless the mortgagee has given written consent to the transfer.

#### **Authority of Board**

**22(1)** If a mortgagee becomes the legal or equitable owner of a production facility due to a judicial or extra-judicial enforcement of the mortgage, the Board may in its discretion

- (a) set the base quota aside for 2 years or allocate part or all of the base quota to a person who purchases the production facility from the mortgagee, if the Board is satisfied that the purchaser is or intends to become a producer, or
- (b) allocate the base quota to the mortgagee, if the Board is satisfied that the mortgagee intends to become a producer.

**(2)** If a base quota has not been allocated to a production facility within the time set out in subsection (1)(a), the Board may

- (a) cancel the base quota, or
- (b) extend the time set out in subsection (1)(a).

#### **Appointment of attorney**

**22.1(1)** Subject to subsections (3) and (4), a person who has loaned money to a producer may apply to the Board to register an appointment of attorney.

**(2)** An appointment of attorney must be in a manner satisfactory to the Board.

**(3)** Only one appointment of attorney may be registered in respect of a producer.

(4) The Board shall not register an appointment of attorney if there is a financial interest under section 21 registered in respect of the production facilities of that producer.

(5) The Board shall not register an appointment of attorney unless it is signed by the producer that is affected by it.

(6) An appointment of attorney is only effective from the date the Board acknowledges in writing that it is registered.

(7) If the Board has acknowledged registration of the appointment of attorney, the Board shall not approve an application for

- (a) the cancellation and reallocation of the quota specified in the appointment of attorney,
- (b) the lease of the quota specified in the appointment of attorney, or
- (c) the transfer of an ownership interest in the quota specified in the appointment of attorney,

unless the person appointed as the attorney signs the application.

AR 89/2000 s2

#### **Permit**

**23** The Board may issue to a producer a permit authorizing the producer to market the weight and category of turkey specified on the permit during the period specified on the permit.

#### **Marketing contraventions**

**24(1)** No person shall market turkeys or purchase turkey poults under this Regulation unless, in addition to holding a licence for that purpose, the person

- (a) holds a base quota or a permit under section 23, or both, or
- (b) is operating as a lessee under section 15 or 16.

**(2)** No producer shall market turkeys in excess of

- (a) the total quota allocated to the producer, or to the lessor in the case of a producer operating as a lessee under section 15, or
- (b) the permit, if any, issued to the producer.

**(3)** If a producer markets turkeys in contravention of subsection (2), the following applies:

- (a) the Board may reduce the weight of turkeys that the producer may subsequently market pursuant to the producer's quota or permit by an amount equal to the weight of the excess marketed, without permanently reducing the base quota;
  - (b) the producer shall pay to the Board a levy of
    - (i) \$.22 per kilogram of live weight on that part of the excess marketed that does not exceed 10% of the applicable permit or quota, and
    - (ii) \$.75 per kilogram of live weight on that part of the excess marketed that exceeds 10% of the applicable permit or quota.
- (4)** For the purposes of this section, a producer is deemed
- (a) to have produced the same number of turkeys as there were turkey poults delivered to the producer, and
  - (b) to have marketed all the turkey poults delivered to the producer within 6 months of the delivery.
- (5)** The weight of the turkeys deemed to have been produced pursuant to subsection (4)(a) is deemed to equal the average industry weight of the category of turkeys marketed in the province during the previous calendar year multiplied by the current number of turkey poults delivered to the producer.
- (6)** The deemed weight of the turkeys that are deemed to have been marketed under this section may, at the discretion of the Board, be adjusted to reflect the age of the turkeys.
- (7)** In determining for the purposes of subsection (4) the deemed weight of turkeys marketed, the Board may adjust the deemed weight of those turkeys to reflect the age of the turkeys marketed.
- (8)** A producer shall forward a levy under subsection (3) to the Board office not later than 30 days after the receipt of a levy notice from the Board, unless the Board agrees to an alternate payment arrangement.
- (9)** Interest at the rate of 12% per year is payable on unpaid levies under this section.
- (10)** A levy under this section, together with unpaid interest, is a debt due to the Board and may be recovered by the Board by civil action for debt.
- (11)** The collection from a producer of a levy under this section or a service charge under section 10 shall not be considered as an



acceptance, acquiescence or acknowledgment by the Board of that producer's production.

**(12)** The Board may establish a sleeve whereby a percentage of the year end over-marketing monetary levy would be exempt from the levy that is provided for under subsection (3)(b).

AR 113/98 s24;276/2002

### **Exports**

**25(1)** This section applies

- (a) to producers who export or intend to export turkey to locations outside Canada prior to or after the turkey is processed, and
- (b) to processors who process that turkey prior to export.

**(2) to (4)** Repealed AR 102/2013 s8.

**(5)** If a processor processes turkey that is intended for export, the processor shall, within 14 days from the day that the turkey is to be exported, forward the following information to the Board:

- (a) the exporter's invoice;
- (b) the product description;
- (c) an export declaration form;
- (d) the farm weight slips;
- (e) the plant live weight slips;
- (f) a certificate of condemnation;
- (g) the bills of lading;
- (h) a health of animals certificate;
- (i) any other information which may be required by the Board or the Canadian Turkey Marketing Agency.

**(6)** Where the producer and the processor comply with this section, the Board shall issue export credits to them in respect of the exported turkeys.

**(7)** Repealed AR 102/2013 s8.

**(8)** Where a producer produces turkeys for export and

- (a) those turkeys or a portion of them are not exported, or

- (b) those turkeys or a portion of them do not qualify for export credits,

the amount of turkeys not exported or that do not qualify for export credits shall be applied against that producer's base quota.

AR 113/98 s25;276/2002;102/2013

#### **Marketing as an exempted person**

**26(1)** No producer shall in a calendar year market the weight of turkeys the producer is authorized to market pursuant to the producer's quota or permit, if any, and also market an additional number of turkeys in the manner described under section 3(2).

**(2)** If a producer markets turkeys in contravention of subsection (1), the Board shall reduce the weight of turkeys the producer may subsequently market pursuant to the producer's quota or a permit by an amount equal to the weight or number of turkeys marketed in contravention of subsection (1).

#### **General prohibitions**

**27(1)** No processor may purchase turkeys from any person other than a producer or a processor.

**(2)** No processor, unless specifically authorized by the Board to do so, shall sell or offer for sale any turkey that is not in a processed form.

**(3)** Subsection (2) does not apply to live turkeys sold for kosher or halal slaughter.

**(4)** No person shall market turkeys at a price that is less than the minimum price established by the Board.

**(5)** No hatcheryman shall, in a calendar year, sell or give more than 300 turkey poults to a person referred to in section 3(2).

**(6)** No processor shall in a calendar year custom kill more than 300 turkeys for any person other than a producer.

**(7)** On being advised by the Board that pursuant to section 24 the Board has reduced the weight of turkey that a producer is allowed to market, no processor shall in respect of that producer market any turkey in excess of the reduced weight of turkey, if any, that the producer is authorized to market unless the processor first obtains written permission from the Board to market that turkey.

**28** Repealed AR 102/2013 s9.

**29** Repealed AR 102/2013 s10.

**30** Repealed AR 102/2013 s11.

**Expiry**

**31** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on September 30, 2018.

AR 113/98 s31;276/2002;86/2008;102/2013



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