

Chicken Farmers of Nova Scotia Regulations

made under Sections 9 and 11 of the
Natural Products Act
R.S.N.S. 1989, c. 308

N.S. Reg. 11/2005 (December 8, 2004)

as amended to N.S. Reg. 261/2016 (December 9, 2016, effective January 1, 2017)

Effective September 1, 2017, these regulations are amended by N.S. Reg. 123/2017.

Effective January 21, 2018, these regulations are amended by N.S. Reg. 103/2017.

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Short title

1 These regulations may be cited as the Chicken Farmers of Nova Scotia Regulations.

Part I - Interpretation

Interpretation

2 (1) In these regulations, unless the context otherwise specifies,

“A-06” means the 8-week marketing period from April 14, 1996, to June 8, 1996, inclusive;

“A-07” means the 8-week marketing period immediately following A-06;

“aggregate base quota” means the aggregate of the base quota registered to a producer and the total base quota registered to all other persons with whom the producer is associated, determined in accordance with Section 5;

“base quota” means the number of kilograms of chicken registered by the Commodity Board to a producer in accordance with these regulations, expressed as an annual figure in kilograms of live weight and as adjusted by the Commodity Board;

“base quota period” means the 48-week period used to calculate adjustments to base quota in accordance with Section 8F, beginning with the 48-week period from December 24, 1995, to November 23, 1996, and from then on each consecutive 48 weeks;

“beneficial shareholder” means a person who owns 1 or more shares issued by a corporation, whether or not that person is listed as the registered owner of any such share in the register of members of the corporation;

“eligible new entrant” means a person whose name is entered in the register of eligible new entrants kept by the Commodity Board under subsection 8D(4);

“extra-provincial amount” means the number of kilograms of chicken that the Commodity Board determines a producer has been authorized or is otherwise eligible to produce or market under the laws of another province in a base quota period;

“facilities” means the building, lands, fixtures and equipment that are used for producing chicken;

“flock” means any group of chickens housed in a producer’s facilities that are being raised by the producer for marketing at the same or approximately the same live weight at the same or approximately the same time;

“free range chicken” means any variety of chicken that

(i) is raised on a feed ration consisting solely of grains, vegetable oil and necessary vitamins and minerals and containing no traces of rendered meat products, fish meal, antibiotics or other medication of any kind, including growth promoters,

(ii) has regular access to fresh air, sun, soil and green forage, and

(iii) will be processed by a federally or Provincially inspected processor;

“immediate family” of an individual means the individual’s spouse, parent, child and grandchild and the spouse of any parent, child or grandchild of the individual;

“interest in base quota” means a legal or beneficial interest in base quota as described in Section 8;

“licence” means a licence issued by the Commodity Board in accordance with Section 9 to authorize a person to produce and market chicken in the regulated area;

“licensing period” means the period from April 1 to November 30 in a calendar year, during which a specialty chicken producer is licensed to market the type of specialty chicken specified in their licence;

“live weight” means the weight of live chicken as measured by a processor on delivery by a producer;

“marketing period” means any period established by the Commodity Board during which producers, other than producers with specialty licences, are licensed to market chicken;

“organic chicken” means any variety of chicken raised under an organic production system that meets all of the following criteria:

(i) it is based on the Canadian Organic Standards published by the Canadian General Standards Board,

(ii) it is certified by a certification body accredited under the Organic Products Regulations, 2009 made under the Canada Agricultural Products Act (Canada),

(iii) it is recognized by the Commodity Board and the Council;

“overmarketing assessment levy” means the levy payable by a producer to the Commodity Board for marketing more kilograms live weight than specified in their producer licence for an overmarketing assessment period;

“overmarketing assessment period” means 2 consecutive marketing periods, beginning with periods A-06 and A-07, and every subsequent consecutive 2 marketing periods after that;

“partnership” includes a limited partnership;

“person” means any of the following:

- (i) a natural person,
- (ii) a corporation,
- (iii) a partnership,
- (iv) a trust or estate;

“Plan” means the Nova Scotia Chicken Marketing Plan made under the Act;

“plant” means any permanent building or structure containing machinery or equipment used for processing chicken;

“producer-vendor” means a person who produces and markets, offers for sale, sells or stores all or any parts of chicken in the regulated area;

“production and marketing agreement” means an agreement for each marketing period entered into by a producer and a processor under subsection 12(1);

“quota allocation” means the total number of kilograms of chicken allocated by the Chicken Farmers of Canada to the Commodity Board for a marketing period, expressed in kilograms of live weight;

“special licence” means a licence issued in accordance with Section 16 that authorizes a producer to produce and market chicken for a specified purpose and time period to meet market requirements and that does not entitle the producer to receive base quota;

“specialty chicken” means chicken that is not produced under a producer licence and that is designated by the Commodity Board as specialty chicken, and includes free range chicken and organic chicken;

“specialty licence” means a licence in accordance with Section 17 that authorizes a producer to produce and market the type of specialty chicken specified on the licence and that does not entitle the producer to receive base quota;

“trust” includes a testamentary trust and an inter vivos trust;

“vendor” means a person who markets, offers for sale, sells or stores whole chickens or any parts of chicken in the regulated area.

(2) For the purpose of these regulations, persons are associated with one another if any of the following apply:

- (a) they are members of the same immediate family;

- (b) they are trustees, personal representatives or beneficiaries of the same trust or estate;
- (c) 1 of them is a donor of a power of attorney and the other is the attorney;
- (d) 1 of them is a corporation and the other is an officer, director or shareholder of the corporation;
- (e) 1 of them is a partnership and the other is a partner in the partnership;
- (f) 1 of them is a trust or corporation that owns shares of a corporation or has an interest in a partnership and the other is that corporation or partnership;
- (g) each of them is a corporation, partnership or trust and they are all controlled directly or indirectly by the same person.

(3) For the purpose of these regulations, a person owns facilities if any of the following apply:

(a) the person holds any of the following, whether or not subject to a mortgage or other encumbrance:

(i) legal title to the facilities evidenced by a deed registered at the relevant land registration office,

(ii) a certificate of title for the facilities issued by the Supreme Court of Nova Scotia,

(iii) a Certified Statement of Registered and Recorded Interests for the facilities issued by the Registrar of Deeds under the Land Registration Act;

(b) the person is a borrower under an agreement of sale with the Nova Scotia Farm Loan Board that applies to the facilities.

(4) Unless a different definition for the same term is set out in subsection (1), definitions in the Plan apply to these regulations.

Section 2 replaced: N.S. Reg. 112/2016.

Part II - Base Quota

Requirement to hold base quota

3 (1) Except as provided in subsection (2), a person is not eligible for a producer licence, a special licence or a producer-vendor licence unless that person has been issued base quota.

(2) Dalhousie University is exempt from the requirement in subsection (1) for base quota, but it must obtain a producer licence for each flock housed in its research facilities and must pay the applicable fee.

Section 3 replaced: N.S. Reg. 112/2016.

Total production allotted

4 The total production allotted among all licences must be equal to the quota allocation.

Section 4 replaced: N.S. Reg. 112/2016.

Associated producers

5 (1) If 2 or more producers are associated, the Commodity Board must determine their aggregate base quota by treating the base quota allotted to each of them as having been allotted to all of them.

(2) If 2 or more producers become associated, the Commodity Board may reduce the base quota of any of the associated producers so that the aggregate base quota held by the associated producers does not exceed the maximum set out in Section 7.

(3) To determine if producers are associated, the Commodity Board may use all information available that it considers relevant, including a certificate provided by a producer under subsections 18(11) or 18(12).

Section 5 replaced: N.S. Reg. 112/2016.

Minimum base quota

6 The minimum base quota that may be registered to a producer is 235 000 kg live weight.

Section 6 replaced: N.S. Reg. 112/2016.

Maximum base quota

7 (1) Subject to subsections (7) and (8), the maximum base quota that may be registered to an individual producer is 5% of the total base quota registered by the Commodity Board.

(2) Except as provided in subsections (3) and (5) and subject to subsections (6) to (8), the maximum aggregate base quota that may be registered to 2 or more associated producers is 5% of the total base quota registered by the Commodity Board.

(3) If 2 or more associated producers have a parent-child relationship, the maximum aggregate base quota that may be registered among the parent or parents and all of the children is 10% of the total base quota registered by the Commodity Board.

(4) A “parent-child relationship” includes a natural person, as well as any corporation, partnership or trust that holds base quota, and in which one or more of the parents or children are the only holders of a legal or beneficial interest.

(5) The maximum specified in subsection (2) for aggregate base quota does not apply to a producer who, on the date this subsection comes into force, is in an association with 1 or more other producers with an aggregate base quota greater than the maximum specified in that subsection.

(6) A producer referred to in subsection (5) is not entitled to have additional base quota transferred to them as long as the aggregate base quota held by the producer and their associated producers exceeds the maximum specified in subsection (2) or (3).

(7) If a producer has been permitted to produce or market an extra-provincial amount, the extra-provincial amount is included in the calculation of base quota and aggregate base quota for determining compliance with subsection (1) or (2).

(8) A producer who exceeds the maximum specified in subsection (1) or (2) for base quota because of an extra-provincial amount is not eligible to receive a transfer of base quota.

(9) No transfer of base quota is effective unless the Commodity Board is satisfied that the requirements of this Section have been met.

Section 7 replaced: N.S. Reg. 112/2016.

Interest in base quota

8 (1) A person has an interest in base quota if that person is any of the following:

- (a) a person that has a direct interest in base quota;
- (b) a shareholder of a corporation that has an interest in base quota;
- (c) a partner in a partnership that has an interest in base quota;
- (d) a trustee or beneficiary of a trust that has an interest in base quota;
- (e) the personal representative or a beneficiary of an estate that has an interest in base

quota.

(2) Either of the following is considered to be an interest in base quota:

- (a) a direct interest in the base quota;
- (b) an interest in the base quota through a series of associated persons with direct or indirect ownership interests in one another.

Section 8 replaced: N.S. Reg. 112/2016.

Applying for approval to transfer base quota

8A (1) In this Section, “application” means an application under subsection (2) for approval to transfer base quota.

(2) A person must apply to the Commodity Board for approval to transfer base quota to another person.

(3) Each of the following is considered a transfer of base quota for the purposes of subsection (2):

- (a) any transfer of all or part of the base quota held by a person to another person;
- (b) any change in the shareholders or beneficial shareholders of a corporation that has been issued base quota;
- (c) any change in the partners of a partnership that has been issued base quota;
- (d) any change in the income beneficiaries or capital beneficiaries of a trust that has been issued base quota, whether the change occurred before or after the final distribution of that trust;

(e) any change other than those listed in clauses (a) to (d) that results in a person acquiring or disposing of an interest in base quota or that otherwise affects a person’s interest in base quota.

(4) An application must include all of the following:

(a) the name of the applicant;

(b) the proposed transferee's name and contact information;

(c) the amount of base quota to be transferred;

(d) a certificate as described in subsections 18(11) and (12) for each of

(i) the transferor of base quota after the transfer, if only a part of the transferor's base quota is being transferred, and

(ii) the transferee of base quota after the transfer;

(e) the facilities to be transferred, if any;

(f) written evidence of a binding agreement satisfactory to the Commodity Board, including a specified transfer date;

(g) the signatures of the applicant and the proposed transferee;

(h) if the proposed transfer is without facilities, details about the facilities where chicken will be produced;

(i) if chicken are to be produced in a leased facility, an application under subsection 10(8) from the transferee for approval to produce chicken in a leased facility;

(j) any information or documentation in addition to that specified in clauses (a) to (i) that the Commodity Board considers relevant to the application.

(5) An application for approval must be in the form approved by the Commodity Board and must be submitted to the Commodity Board at least 18 weeks before the beginning of the marketing period on the first day of which the transfer of base quota is intended to take place.

(6) The Commodity Board may consider any of the following additional information in considering an application:

(a) information contained in a certificate provided by the applicant or the proposed transferee under subsection 18(11) or (12);

(b) information provided to the Commodity Board by a broiler chicken commodity board that is created under the laws of a province other than the Province and has authority over quota for broiler chicken in that other province;

(c) Commodity Board records pertaining to the applicant or the proposed transferee;

(d) information obtained by the Commodity Board at any time as a result of an inspection under the Plan or the Act;

(e) any information in addition to that specified in clauses (a) to (d) that it considers relevant to the application.

(7) Nothing in these regulations affects the ability of the parties to a transfer to establish terms and conditions in a contract of purchase and sale that are consistent with the Act, the Plan and these regulations.

Section 8A added: N.S. Reg. 112/2016.

Commodity Board approval of application to transfer base quota

8B (1) If the Commodity Board is satisfied that an application under Section 8A for approval to transfer base quota is complete, the Commodity Board may approve the transfer.

(2) A transfer of base quota takes effect on the first day of the next marketing period for which licences have not yet been issued by the Commodity Board.

(3) Approval of a transfer of base quota may include any condition that the Commodity Board considers appropriate.

Section 8B added: N.S. Reg. 112/2016.

When application for transfer of base quota not approved

8C The Commodity Board must refuse an application under Section 8A for approval to transfer base quota in any of the following circumstances:

(a) as a result of the proposed transfer, any producer's base quota would fall below the minimum base quota specified in Section 6;

(b) as a result of the proposed transfer, the base quota of any producer or the aggregate base quota of any associated producers would exceed the maximum base quota specified in Section 7;

(c) subsection 7(5) or 7(8) applies to the proposed transferee;

(d) if a transfer of base quota without facilities is proposed, the transferee has not complied with subsections 10(7) to 10(13);

(e) the applicant or proposed transferee owes any licence fees, levies, or other money to the Commodity Board;

(f) the proposed transfer would violate the Act, these or any other regulations made by the Commodity Board, or any policy, order or direction of the Commodity Board.

Section 8C added: N.S. Reg. 112/2016.

Applying for registration as eligible new entrant

8D (1) A natural person who meets all of the following criteria may apply to the Commodity Board to be registered as an eligible new entrant:

(a) the person is at least 19 years old;

(b) the person does not currently hold and has never held base quota;

(c) the person is a resident of the Province.

(2) An application for registration as an eligible new entrant must be in the form approved by the Commodity Board and must include the applicant's name and signature.

(3) An application for registration as an eligible new entrant must be submitted to the Commodity Board no later than noon on the last business day of the Commodity Board in December.

(4) The Commodity Board must keep a register of eligible new entrants and, on determining that an applicant is eligible to be registered, must add the applicant's name to the register in the order that their eligibility was determined.

Section 8D added: N.S. Reg. 112/2016.

Decision to issue base quota to eligible new entrant

8E (1) At the end of a base quota period, the Commodity Board must decide whether to issue base quota to 1 or more eligible new entrants.

(2) The Commodity Board must not issue base quota to an eligible new entrant unless the quota allocation is at least equal to the quota allocation for the base quota period beginning with marketing period A-39 and ending with marketing period A-45.

(3) If the Commodity Board decides to issue base quota to an eligible new entrant, it must notify the eligible new entrant whose name is the next one listed in the register kept under subsection 8D(4).

(4) A notice under subsection (3) must include all the following terms and conditions:

(a) the eligible new entrant must own facilities that meet the production standard determined under subsections 10(3) and 10(4) by a date specified in the notice;

(b) the eligible new entrant's facilities must pass an inspection by the Commodity Board;

(c) base quota will be registered in the name of the eligible new entrant in at least the minimum amount specified in Section 6;

(d) the eligible new entrant is prohibited from transferring base quota for at least 3 years following the date the Commodity Board registers base quota in their name;

(e) to be issued base quota, the eligible new entrant must accept the terms and conditions in the notice by the date specified in the notice.

(5) The Commodity Board may withdraw or amend a notice issued under subsection (3) at any time if the eligible new entrant fails to comply with any term or condition listed in subsection (4).

(6) If an eligible new entrant dies after base quota is registered in their name, the base quota is registered in the name of the deceased's estate and may be transferred to a beneficiary of the estate only if the beneficiary meets the criteria in subsection 8D(1) for an applicant for registration as an eligible new entrant.

(7) If the estate of a deceased eligible new entrant becomes a base quota holder referred to in subsection (6) and the estate has no beneficiary who meets the criteria described in subsection (6), the Commodity Board may allow the estate to transfer the base quota in accordance with Section 8A.

Section 8E added: N.S. Reg. 112/2016.

Adjusting base quota after base quota period

8F (1) The Commodity Board must adjust each producer's base quota after each base quota period to reflect increases or decreases in the quota allocation and to reflect the total kilogram increase or decrease in the Province for the base quota period then ended.

(2) Subject to Sections 8G and 8H, if there is an increase as described in subsection (1), the Commodity Board must apportion base quota adjustments in the following manner:

(a) first, if the Commodity Board has decided to allot base quota to an eligible new entrant under subsection 8E(1), the Commodity Board must allot some or all of the amount of the increase to an eligible new entrant;

(b) second, the Commodity Board must apportion any remaining amount of the increase on a pro rata basis among all producers, based on each producer's share of the total base quota registered by the Commodity Board.

(3) Subject to Sections 8G and 8H, if there is a decrease as described in subsection (1), the Commodity Board must apportion the amount of the decrease on a pro rata basis among all producers, based on each producer's share of the total base quota registered by the Commodity Board.

Section 8F added: N.S. Reg. 112/2016.

Impact of transfer on base quota adjustment

8G (1) When base quota is transferred the increase or decrease with respect to the amount of the transferred quota applies to the transferee on a pro rata basis from the date of the transfer.

(2) A producer who transfers all of their base quota does not retain any part of any adjustment to base quota.

(3) A producer who transfers part of their base quota is not eligible for any adjustments to base quota under subsection 8F(2) from the beginning of the marketing period for which the transfer was effective until the beginning of the first marketing period of the third full base quota period after the effective date of the transfer.

Section 8G added: N.S. Reg. 112/2016.

Impact of maximum and minimum base quota on base quota adjustment

8H (1) The Commodity Board may modify the amount of an adjustment to increase base quota apportioned to a producer under subsection 8F(2) if necessary to maintain compliance with the maximum base quota and maximum aggregate base quota requirements in Section 7.

(2) The Commodity Board may modify the amount of an adjustment to decrease base quota apportioned to a producer under subsection 8F(3) if necessary to maintain compliance with the minimum base quota requirements in Section 6.

(3) Any amount of a base quota adjustment that would be apportioned to a producer except that the producer is not eligible for an adjustment under subsection 8G(3) must be apportioned to all remaining producers on a pro rata basis, except to those producers to whom subsection 7(6) or 7(8) applies.

Section 8H added: N.S. Reg. 112/2016.

Cancelling base quota or adjustment to base quota

8I (1) The Commodity Board may cancel all or part of a producer's base quota or the amount of any adjustment to increase the producer's base quota, or both, in any of the following circumstances:

(a) the producer fails to provide the Commodity Board with any report required under Section 18 with respect to the production and marketing of chicken;

(b) the producer fails to comply with a condition imposed on an approval to transfer quota issued under Section 8B;

(c) the producer raises a flock in facilities not owned by the producer without the prior written approval of the Commodity Board;

(d) the producer fails to allow an inspector to inspect the books and records related to and the premises used by the producer in producing chicken;

(e) the producer violates the Act, the Plan or these regulations other than as described in clauses (a) to (d).

(2) Any base quota or amount of an adjustment to base quota cancelled in whole or in part under subsection (1) is transferred to the Commodity Board and may be

(a) retired; or

(b) reissued by the Commodity Board to any other person or persons, subject to any conditions the Commodity Board considers appropriate.

(3) A producer whose base quota is transferred to the Commodity Board under this Section is not entitled to compensation from the Commodity Board.

Section 8I added: N.S. Reg. 112/2016.

Transition

8J The Commodity Board, in its sole discretion, may recognize as valid any transfer of base quota made under any agreement, will or other instrument executed before the date this Section comes into force.

Section 8J added: N.S. Reg. 112/2016.

Part III - Licensing and Fees

Requirement to hold licence

9 (1) Except as provided in subsection (2), a person must not engage in the production or marketing of chicken unless the person holds a valid licence.

Exception

(2) The production of up to 200 birds per premise in a calendar year for personal consumption does not require a licence.

Subsection 9(2) replaced: N.S. Reg. 321/2007.

(3) (a) A producer must pay the Commodity Board the fee prescribed in Section 14; and Clause 9(3)(a) amended: N.S. Reg. 142/2010.

(b) register the facilities, pursuant to subsection 11(1), on a form approved by the Commodity Board.

Categories of licences

(4) The following are the types of licences issued by the Commodity Board:

(a) producer licence;

(b) producer-vendor licence;

(c) vendor licence;

(d) special licence; and

(e) specialty licence.

Subsection 9(4) replaced: N.S. Reg. 142/2010.

Applying for licence

(5) A person must submit a completed application to the Commodity Board, on a form approved by the Commodity Board, for each type of licence sought.

Subsection 9(5) replaced: N.S. Reg. 142/2010.

Transferring licence

(6) Before transferring a licence, a person must apply for approval of the transfer by submitting an application to the Commodity Board on a form approved by the Commodity Board and within the time limit prescribed by the Commodity Board, and paying the licence transfer fee prescribed by the Commodity Board.

Subsection 9(6) replaced: N.S. Reg. 142/2010.

(7) Special licences and specialty licences are not transferable.

Subsection 9(7) replaced: N.S. Reg. 142/2010.

Producer licences

10 (1) A producer licence must state all of the following:

(a) the name of the licensee;

(b) the marketing period for which it is issued;

(c) the quantity in kilograms live weight of chicken.

Effective date of producer licence

(2) (a) A producer licence does not take effect unless the Commodity Board receives the production and marketing agreement by the deadline date specified in the production and marketing agreement.

(b) If a person markets chicken after missing the filing deadline for the production and marketing agreement, the person is still liable to pay the fee specified in subsection 14(1), and the overmarketing assessment levy specified in subsection 12(5), based on the amount of chicken actually marketed by the person and the amount specified in the producer licence even though the licence is not in effect.

Clause 10(2)(b) amended: N.S. Reg. 67/2009.

Production standard

(3) The Commodity Board must determine the standard amount of kilograms live weight for a producer licence by multiplying 31 kg by the producer's building capacity per square metre as recorded with the Commodity Board at the time of issuing the licence.

(4) A producer must not market more kilograms live weight in a marketing period than the production standard unless the producer and the processor specify their agreement to exceed the standard in the production and marketing agreement filed with the Commodity Board for that marketing period.

Under production of producer licences

(5) A producer who markets less than 96% of the production standard prescribed by the total producer licences issued to that producer in a base quota period must appear before the Commodity Board to explain why less chicken was marketed than was licensed for.

Refusal to issue producer licence

(6) If the Commodity Board is not satisfied with the explanation given under subsection (5),

(a) the Commodity Board must refuse to issue, in whole or in part, the producer's producer licence for future marketing periods; or

(b) if the producer is currently a licence holder, the Commodity Board must refer the matter to Council, who may suspend or revoke the producer's producer licence.

Subsection 10(6) replaced: N.S. Reg. 182/2010.

Facilities requirement

(7) A licence confers upon a producer the right to produce chicken in facilities owned by the producer and registered with the Commodity Board under subsection (10).

(8) A producer who holds a producer licence and who wishes to produce chicken in facilities owned by another person must submit, on a form approved by the Commodity Board, an application to the Commodity Board for approval to produce chicken in leased facilities.

(9) In considering an application to produce chicken in leased facilities, the Commodity Board must be satisfied that both of the following are complied with:

(a) the applicant and the owner have signed a written agreement, on a form approved by the Commodity Board, that permits the applicant to produce chicken in the leased facilities for the marketing period of the applicant's producer licence;

(b) there is a clearly segregated and definable space of a permanent nature allocated to the applicant in the leased facilities that will permit chick placement and marketings to be accurately reported.

Registering producers' facilities

(10) A producer must register the producer's facilities as required by the Commodity Board.

(11) Before issuing a producer licence, the Commodity Board may, for the purpose of registering facilities and upon reasonable notice of its intention to do so, examine and measure the interior and exterior dimensions of any buildings in which chicken will be produced.

(12) A producer must allow a representative of the Commodity Board to enter the producer's owned or leased facilities for the purpose of examining them in accordance with subsection (11) or to ensure that there continues to be a clearly segregated and definable space in accordance with clause (9)(b).

(13) The building capacity for producing chicken per square meter of a registered facility includes only usable production floor space.

Basis for licence amount

11 (1) Subject to subsection (2) and Section 10, the quantity of chicken in kilograms live weight for each producer licence is based on

- (a) the base quota held by each producer;
- (b) processor market requirements; and
- (c) the quota allocation.

Adjustments

(2) If the Commodity Board adjusts the total quantity of chicken allocated among all producer licences, the quantity of chicken on each producer licence referred to in subsection (1) must be adjusted based on the producer's share of the total base quota registered by the Commodity Board. Subsection 11(2) replaced: N.S. Reg. 112/2016.

Agreement with processor

12 (1) Before each marketing period, a producer and a processor must enter into a production and marketing agreement for that marketing period, which must be in the form approved by the Commodity Board and must specify all of the following:

- (a) the number of chicken to be placed with the producer;
- (b) the target average weight for each chicken at marketing;
- (c) the scheduled process week for the chicken to be placed.

Subsection 12(1) amended: N.S. Reg. 112/2016.

Maximum kilograms

(2) The product obtained by multiplying the number of chicken to be placed minus expected mortality by the target average weight at marketing shall not exceed the quantity of kilograms live weight prescribed by the producer licence for that marketing period.

Subsections 12(3) and (4) repealed: N.S. Reg. 67/2009.

Overmarketing assessment levy

(5) Regardless of whether a producer holds producer licences for one or both marketing periods of an overmarketing assessment period, the producer must pay the following overmarketing assessment levy if the producer markets more kilograms live weight during the overmarketing assessment period than is prescribed by their producer licences:

(a) \$0.44 for every kilogram marketed that is over 102% and up to 104% of the total prescribed by the licences;

(b) \$0.88 for every kilogram marketed that is over 104% of the total prescribed by the licences.

Subsection 12(5) replaced: N.S. Reg. 67/2009.

(5A) A written notice of the amount of the overmarketing assessment levy due must be sent to a producer by the Commodity Board.

Subsection 12(5A) replaced: N.S. Reg. 67/2009.

Payment of levy

(6) A person required to pay an overmarketing assessment levy under this Section must send the payment to the Commodity Board within 14 days of the date that the written notice was mailed by the Commodity Board.

Subsection 12(6) amended: N.S. Reg. 67/2009.

Waiver of levy

(7) In extenuating circumstances, the Commodity Board may waive all or part of an overmarketing assessment levy under this Section.

Subsection 12(7) amended: N.S. Reg. 67/2009.

Section 13 repealed: N.S. Reg. 67/2009.

Producer licence fees

14 (1) Each producer who holds a producer licence must pay to the Commodity Board, at the time the producer's chicken are marketed, a fee of \$1.48 plus any applicable taxes, per 100 kilograms, based on live weight of the chicken marketed.

Subsection 14(1) amended: N.S. Reg. 12/2015.

(2) Before a specialty licence is issued, the applicant must pay to the Commodity Board

(a) a fee of \$0.09 per chicken, plus any applicable taxes;

Clause 14(2)(a) amended: N.S. Reg. 261/2016.

(b) the fee for the cost of special labels issued by the Commodity Board; and

(c) a licence fee of \$25.00.

Subsection 14(2) replaced: N.S. Reg. 142/2010.

Deduction by processor

(3) Despite subsection (1), if a producer is marketing chicken through the processing plant of a processor, the processor must deduct the licence fees referred to in subsection (1) before making any settlement with the producer, and the licence fees collected by the processor must be paid on behalf of the producer to the Commodity Board no later than 15 days after the end of the month in which the fee was deducted.

Producer responsibility

(4) If a processor fails to pay the licence fees to the Commodity Board on behalf of a producer in accordance with subsection (2), the licence fees must be immediately paid by the producer.

Payment by producer

(5) If a producer markets chicken without shipping to a processor, the producer must pay the licence fees to the Commodity Board within 7 days of marketing the chicken or the Commodity Board will assess an equivalent per chicken fee for the marketing.

When marketing occurs

(6) Marketing is deemed to have occurred,

(a) if a producer is also a processor, whether directly or indirectly as a beneficial shareholder or partner or beneficiary of a trust, or through an associated company, when live chicken[s] are removed from the producer's facilities for the purposes of processing or marketing; or

(b) in all cases other than as described in clause (a), when chicken are [is] delivered to the plant or other location where the producer is paid.

Condemned chicken

(7) Despite clause 6(b) [(6)(b)], chicken is not considered to be marketed and no fee is payable for any chicken delivered to a plant and not subsequently resold in any form for human consumption because it is condemned by inspectors acting under the Health of Animals Act (Canada) or the Meat Inspection Act as unsuitable for resale.

Consequences for non-payment of fee

(8) If a processor or producer does not pay a fee as required by this Section,

(a) the Council may suspend or revoke the producer's producer licence; and

(b) the Commodity Board may cancel or reduce the producer's base quota or any adjustment unit, or both.

Subsection 14(8) replaced: N.S. Reg. 182/2010.

Vendor licence fee

15 Each person who sells chicks in the regulated area must pay to the Commodity Board a fee of \$0.10 for each chick sold to any person who does not hold a licence.

Section 15 replaced: N.S. Reg. 142/2010.

Special licences

16 (1) A special licence issued by the Commodity Board may be for any marketing period.

Effect of special licence

(2) A special licence does not entitle a producer to any rights other than those specifically stated in the special licence and does not confer any rights to receive additional licence or base quota.

Breach of regulations

(3) A special licence may be suspended or revoked by the Council if the licence holder violates the Act, any regulation or any policy of the Commodity Board, including failing to pay any applicable fee or to comply with the terms of the special licence.

Subsection 16(3) amended: N.S. Reg. 182/2010.

Specialty licence

17 (1) A specialty licence must state all of the following:

- (a) the producer's name;
- (b) the licensing period;
- (c) the number of chicken licensed to be produced; and
- (d) the type of chicken to be produced.

Facility inspection

(2) Before issuing a specialty licence, the Commodity Board may visit, examine, measure and photograph the producer's facilities to ensure they conform with the requirements that apply to the type of specialty chicken the producer is licensed to produce.

Underproduction

(3) A specialty licence holder who markets less than 92% of the chicken that their specialty licence permits them to produce during a licensing period is eligible for only the amount of their proven production plus 10% as the maximum amount to be marketed in the following licensing period.

Extenuating circumstances

(4) A specialty licence holder who claims that there were extenuating circumstances for underproduction must provide a detailed explanation to the Commodity Board outlining the circumstances that led to the underproduction of chicken.

No base quota conferred

(5) A specialty licence does not entitle a producer to any rights other than those specifically stated in the specialty licence and does not confer any rights to receive base quota.

Section 17 replaced: N.S. Reg. 142/2010.

Part IV - Records and Reporting

Licence [Licensee] required to maintain records

18 (1) A person licensed by the Commodity Board must maintain complete and accurate records relating to the licensee's production and marketing of chicken.

Requirement to give information

(2) A person licensed by the Commodity Board must, if requested in writing, give the Commodity Board, or any agent of the Commodity Board authorized for that purpose, any

information relating to the licensee's production and marketing of chicken on the appropriate forms approved by the Commodity Board and referred to in this Section.

Processor reports

(3) A processor must, within 3 business days of the end of each week, send to the Commodity Board a properly completed processor marketing report form in relation to all chicken processed by the processor during the previous week.

Producer reports

(4) On delivery of chicken to a processor, a producer may be required to send to the Commodity Board a copy of the producer's delivery slip, properly completed to show the producer's licence number and the number of chicken delivered to the processor.

Return recap form

(5) Within 14 days of marketing, a producer must send to the Commodity Board a properly completed return recap form in relation to all chicken marketed by the producer.

Hatchery report

(6) Within 10 days of the end of each month, a hatchery operator must send to the Commodity Board a properly completed hatchery report showing

- (a) the number and variety of chicks delivered to each person; and
- (b) the name and address of each person to whom chicks were delivered.

Vendor report

(7) A vendor who sells chicks to any person who is not a holder of a licence must register with the Commodity Board and must provide all the following information within 10 days of the end of each month:

Subsection 18(7) amended: N.S. Reg. 142/2010.

- (a) the vendor's name and address;
- (b) the quantity of chicks marketed in the reporting period to each person, if any;
- (c) the name and address of each person to whom chicks were sold or delivered in the reporting period, if any.

Corporations

(8) A producer that is a corporation must identify in a form approved by the Commodity Board each beneficial shareholder of the producer and send the completed form to the Commodity Board on an annual basis and within 30 days of any change in the beneficial shareholders.

Partnerships

(9) A producer that is a partnership must identify in a form approved by the Commodity Board each partner of the producer and send the completed form to the Commodity Board on an annual basis and within 30 days of any change in the partners.

Trusts

(10) A producer that is a trust must identify in a form approved by the Commodity Board each income and capital beneficiary of the trust and send the completed form to the Commodity Board on an annual basis and within 30 days of any change in the beneficiaries.

Forms

(11) On or before April 30 in 2011 and in every 3rd calendar year after 2011, each person that has been issued base quota must submit a certificate to the Commodity Board in a form approved by the Commodity Board identifying each person who has an interest in that base quota as of January 1 of the calendar year in which the certificate is provided and all persons who are associated with that person and any creditors with a security interest in an interest in base quota held by that person.

Subsection 18(11) added: N.S. Reg. 182/2010; amended N.S. Reg. 112/2016.

(12) Despite subsection (11), the Commodity Board may at any time require any person that has been issued base quota to submit, no later than 30 days after receiving notice of the requirement, a certificate to the Commodity Board in a form approved by the Commodity Board identifying each person who has an interest in that base quota and all persons who are associated with that person and any creditors with a security interest in an interest in base quota held by that person.

Subsection 18(12) added: N.S. Reg. 182/2010; amended: N.S. Reg. 112/2016.

(13) The Commodity Board must, upon written request, supply any form or report referred to in these regulations to any person.

Subsection 18(11) renumbered (13): N.S. Reg. 182/2010.

Failure to provide reports

(14) The Council may suspend or revoke a licence, and the Commodity Board may refuse to issue a licence, if a licensee or applicant fails to provide a report required by these regulations.

Subsection 18(12) renumbered (14) and replaced: N.S. Reg. 182/2010.

Part V - Pricing

Base price

19 (1) The price that is recommended as the base price by the Price Negotiating Committee under clause 8(1)(b) of the Plan or established by final offer arbitration under these regulations must be immediately sent to the General Manager of the Commodity Board.

Publication

(2) The General Manager of the Commodity Board must publish the base price and distribute it as soon as is practicable to each producer and processor.

Catching

(3) The base price includes all costs incurred in catching.

Premium

20 (1) In addition to the base price, a processor must pay to a producer a premium per kilogram live weight as determined by resolution of the Commodity Board.

(2) The premium paid to a producer by a processor must be based on the average live weight of all chicken contained in each truckload shipped by the producer to the processor.

Condemned chicken

21 (1) A processor purchasing chicken must pay for all chicken received at the facilities of a producer other than chicken that are condemned at the processing plant by inspectors acting under the Health of Animals Act (Canada) or the Meat Inspection Act because of reasons of disease or emaciation.

Subsection 21(1) amended: N.S. Reg. 112/2016.

Bruised birds

(2) No parts of or whole bruised chicken are to be charged back to the producer by the processor.

Requirement to pay published price

22 Unless authorized by the Commodity Board in writing, a producer must not sell or offer to sell and a processor must not buy chicken at a price less than the base price established by either the Price Negotiating Committee or the final offer arbitration and published by the Commodity Board.

Part VI - Appeals

Appeal provisions

23 (1) An interested person or class of persons affected by a decision has the right to appeal a decision of the Commodity Board on any of the following:

- (a) cancellation of a licence;
- (b) refusal to issue a licence;
- (c) refusal to approve a quota transfer;
- (d) cancellation of base quota;
- (e) refusal to issue quota allocation.

(2) An interested person or class of persons affected by a decision of the Commodity Board may request the Council to hear an appeal on a decision and, except as provided for in subsection (1), the Council may, in its discretion, determine whether to hear an appeal.

Part VII - Final Offer Arbitration Procedure

Time and place of arbitration

24 (1) If the Price Negotiating Committee fails to agree on a recommended base price as provided for in clause 8(1)(b) of the Plan, a final offer arbitration hearing must be held.

(2) The Price Negotiating Committee must send a written meeting notice to the parties that includes the date for the final offer arbitration hearing.

(3) A final offer arbitration hearing date must be no later than the Thursday immediately after the beginning of a marketing period.

(4) A final offer arbitration hearing must take place at the office of the Commodity Board unless the parties and the arbitrator agree on another location.

Parties

25 The Commodity Board and the processors are the only 2 parties to a final offer arbitration hearing.

List of arbitrators

26 (1) The Commodity Board must maintain a list of arbitrators that is agreed to by both parties and must update the list at least annually.

(2) By April 30 of each year, the Commodity Board must mail all of the following to the processors:

(a) the current approved list of arbitrators;

(b) the Commodity Board's recommendations for any new names to be added to and existing names to be deleted from the current approved list;

(c) a request that the processors make further recommendations for any new names to be added to or existing names to be deleted from the current approved list.

(3) By May 31 of each year, the processors must respond to the request in clause 2(c) [(2)(c)] by providing all of the following to the Commodity Board:

(a) their approval of any of the Commodity Board's recommendations;

(b) their recommendations for any new names to be added to or any existing names to be deleted from the current approved list.

(4) Despite subsections (1) to (3), if the Commodity Board and processors are unable to agree on a list of arbitrators by June 30 of any year, the Council must provide a list of arbitrators as soon as possible to the Commodity Board and processors.

(5) A list provided under subsection (4) is deemed to be the approved list and remains in effect until the parties agree on an approved list.

Appointment of arbitrator

27 (1) The Commodity Board must appoint an arbitrator from the approved list of arbitrators at least 5 days before the date set for the final offer arbitration hearing.

(2) The Commodity Board must appoint arbitrators in the order in which their names appear in the list, on a rotational basis throughout the year, subject to their availability.

Representation

28 (1) Each party to a final offer arbitration hearing may be represented by counsel or 1 or more agents.

(2) Except with the consent of the arbitrator, no more than 3 officers or directors of either party may be present during a final offer arbitration hearing.

(3) Any of the officers or directors present during a final offer arbitration hearing may speak on behalf of the party that the officer or director represents.

Exchange of documents

29 (1) At the beginning of a final offer arbitration hearing, each party must provide the arbitrator with a written submission specifying the party's final offer regarding price and outlining the facts supporting the final offer.

(2) Two copies of each party's written submission required by subsection (1) must be simultaneously provided to the other party.

(3) Neither party may remove any written submission from the place of the final offer arbitration hearing until both parties have made representations to the arbitrator with respect to their written submissions.

Conduct of arbitration hearing

30 (1) An arbitrator may conduct a final offer arbitration hearing in accordance with these regulations in any manner the arbitrator considers appropriate, and each party must be treated fairly and be given full opportunity to present the party's case.

(2) Unless waived by both parties, there must be a break in the hearing after the parties have made oral representations, the duration of which is determined by the arbitrator, to permit the parties and the arbitrator to review the written submissions and representations.

(3) Following the break referred in subsection (2), each party has the right to cross-examine the other party's representatives on its written submissions and the oral representations made.

(4) A person must not, at any time, convey any information to the arbitrator except as part of the final offer arbitration hearing and in the presence of both parties to the arbitration.

(5) An arbitrator must not meet separately with either of the parties or receive information from a party without full disclosure of the information to the other party.

Confidentiality

31 (1) A final offer arbitration hearing must be held in private.

(2) All documents relevant to a final offer arbitration hearing must be kept confidential by the arbitrator and the parties and must not be disclosed to any other person, except with the written consent of both parties.

Evidence

32 (1) Each party must provide a statement of facts and relevant documents in support of its position.

(2) An arbitrator is the judge of relevancy and materiality of the evidence offered in a final offer arbitration hearing and is not required to apply the legal rules of evidence.

Examination of parties

33 Subject to subsection 30(5), an arbitrator may order a party, or a representative of a party, to submit to examination by the arbitrator under oath or affirmation and to submit all documents that the arbitrator requires.

Decision of arbitrator

34 (1) An arbitrator must select either party's final offer as set out in the party's written submission as the base price for the purpose of subsection 19(1).

(2) An arbitrator must give an oral decision to both parties within 24 hours after a final offer arbitration hearing ends and must provide a written decision with reasons to both parties within 7 days after a final offer arbitration hearing ends.

(3) In making a decision, an arbitrator must consider only the written and oral representations made during a final offer arbitration hearing.

(4) A decision of an arbitrator is final and binding upon the parties.

Arbitrator's fees

35 An arbitrator's fees must be paid by the Commodity Board.