

(Consolidated up to 153/2017)

ALBERTA REGULATION 3/2000

Marketing of Agricultural Products Act

ALBERTA CHICKEN PRODUCERS MARKETING REGULATION

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Part 1 General

Definitions

1 In this Regulation,

- (a) “Animal Care Program” means the program known as the Animal Care Program as approved or varied from time to time by the Chicken Farmers of Canada and approved by the Board under section 3.1;
- (a.1) “Animal Care Program Policy” means the policy established by the Board under section 3.1;
- (a.2) “authorized producer” means a person who
 - (i) holds a licence authorizing the person to market chicken, and
 - (ii) has been allocated authorized quota in accordance with Part 1 or Part 2 of this Regulation;
- (b) “authorized quota” means the number of quota units that have been allocated by the Board to an authorized producer;
- (c) “Board” means the board known as the Alberta Chicken Producers;
- (d) “broiler” means a chicken that is marketed at a live weight that is greater than one kilogram and less than 2.5 kilograms;
- (e) “chick” means a chicken that is less than 2 weeks old;
- (f) “chicken” means any category of chicken that is under 6 months of age and that is not raised for egg production;
- (g) “communal group” means a community of not fewer than 50 individuals in which
 - (i) the members live and work together in an agricultural enterprise,

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- (ii) a member is not permitted to own property in the member's own right, and
 - (iii) the members devote their working lives to the activities of the communal group;
 - (h) "communal group production quota" means a quota that may be granted to a communal group permitting the communal group to produce, market and consume in accordance with section 19 up to 6000 chickens in each calendar year;
 - (i) "consumer" means a person who purchases any form of chicken for the person's own consumption or for consumption in the person's household;
 - (j) "Council" means the Alberta Agricultural Products Marketing Council;
 - (k) "custom kill" means processing by a processor of chicken owned by a person, other than the processor, on a fee for services basis;
 - (l) "family", in respect of an individual, includes the individual's spouse, adult interdependent partner, child, parent, sibling, grandparent, grandchild, son-in-law, daughter-in-law, father-in-law, mother-in-law, sister-in-law or brother-in-law;
 - (m) "hatchery" means a person who is engaged in the business of marketing chicks;
 - (n) "marketing quota" means the maximum live weight in kilograms of chicken that an authorized producer, or other eligible applicant in the case of the Organic Chicken Lease Program, is authorized to market in a production cycle;
 - (o) repealed AR 83/2010 s2;
 - (o.1) "On-Farm Food Safety Assurance Program" means the program known as the On-Farm Food Safety Assurance Program as approved or varied from time to time by the Canadian Food Inspection Agency;
 - (p) "person" means a person as defined in the *Interpretation Act* and includes
 - (i) a partnership as defined in the *Partnership Act*,

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- (ii) any unincorporated organization that is not a partnership referred to in subclause (i), or
- (iii) any group of individuals who are carrying on an activity for a common purpose and are neither a partnership referred to in subclause (i) nor an unincorporated organization referred to in subclause (ii);
- (q) “Plan” means the Alberta Chicken Producers’ Marketing Plan;
- (r) “processing” means changing the nature of chicken by mechanical means or otherwise and includes killing;
- (s) “processor” means any person who is engaged in the business of processing chicken;
- (t) “production cycle” means the period of time to which a quota is applied, as established by resolution of the Board;
- (u) “production facilities and premises” means the buildings and improvements in which chicken is produced together with the land on which those buildings and improvements are situated;
- (v) “quota unit” means the unit of measurement chicken production quota, expressed in kilograms of live weight chicken, that may be allocated or reallocated by the Board;
- (w) “research permit” means the permission granted in writing to a researcher by the Board to market chicken within a given period;
- (x) “researcher” means a person involved in bona fide scientific research in respect of chicken;
- (y) “roaster” means a chicken that is marketed at a live weight of not less than 2.5 kilograms;
- (z) repealed AR 223/2012 s2;
- (aa) “site plan” means a drawing of the outline of buildings used to produce chicken, including outside dimensions of the buildings and the legal description of the land on which the buildings are located.

AR 3/2000 s1;118/2002;124/2003;290/2003;83/2010;128/2011;
223/2012

Ownership interests

2(1) For the purpose of this Regulation, a person has an ownership interest in authorized quota if that person

- (a) has any legal or equitable interest in authorized quota;
- (b) owns shares in a corporation that has a legal or equitable interest in authorized quota;
- (c) owns any shares in a corporation that is affiliated with another corporation that has a legal or equitable interest in authorized quota;
- (d) is owned by a person that has a legal or equitable interest in authorized quota;
- (e) is owned by a corporation that is affiliated with a corporation that has a legal or equitable interest in authorized quota;
- (f) is affiliated with a corporation that has a legal or equitable interest in authorized quota.

(2) For the purposes of this Regulation, a corporation is affiliated with another corporation

- (a) if that corporation owns any shares, legally or equitably, in that other corporation,
- (b) if the shares of that corporation are owned, legally or equitably, by that other corporation, or
- (c) if a person legally or equitably owns shares in both corporations.

(3) If 2 or more corporations are all affiliated with another corporation at the same time, those corporations are deemed to be affiliated with each other.

Prohibition

3(1) No person shall

- (a) operate a hatchery,
- (b) produce chicken,
- (c) market chicken, or
- (d) process chicken,

unless the person is the holder of an appropriate licence issued by the Board that is not suspended and has not been cancelled.

(2) Despite subsection (1), the holder of a communal group production quota may market chicken in accordance with section 19.

AR 3/2000 s3;68/2005

Animal Care Program Policy

3.1 The Board may

- (a) approve the Animal Care Program developed by the Chicken Farmers of Canada and require authorized producers to comply with it, and
- (b) establish an Animal Care Program Policy for the purpose of administering the Animal Care Program in Alberta.

AR 128/2011 s3

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 hatchery;
- (b) a licence to market chicken as an authorized producer;
- (c) a licence to process chicken;
- (d) a licence to lease quota.

(1.1) An application for a licence must be in a form acceptable to and be accompanied by any information required by the Board.

(1.2) An application for a licence to market chicken as an authorized producer must be accompanied by a fee of \$25.

(2) A licence only authorizes the licensee to engage in the activity specified on the licence.

(3) If a person engages in more than one activity listed in subsection (1), that person must hold a separate licence for each activity.

(4) Repealed AR 68/2005 s3.

(5) A licence is not transferable.

(6) A licence is subject to any conditions imposed by the Board on the licence and the licensee must comply with any directions issued by the Board relating to the activity authorized by the licence.

AR 3/2000 s4;68/2005

Issue, renewal or refusal of licence

5(1) If a person applies for a licence, the Board must, subject to subsection (3) and section 6, issue a licence to the applicant.

(2) A licence, other than a licence to lease quota, issued under this section is valid until the Board suspends or cancels the licence.

(2.1) A licence to lease quota expires in accordance with section 6(2).

(3) 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 or has contravened the Act, the Plan, this Regulation or an order or direction of the Council or the Board or a condition imposed on the licence,
- (c) fails to comply with any technical requirements under the On-Farm Food Safety Assurance Program, or
- (d) fails to comply with any technical requirements under the Animal Care Program.

(3.1) Repealed AR 68/2005 s4.

(4) If the Board refuses to issue a licence, the Board must serve on the applicant a copy of its decision to refuse to issue the licence.

(5) A licence issued by the Board

- (a) is a licence to be engaged in the activity stated in the licence, and
- (b) is not an approval or endorsement by the Board of the licence holder.

(6) No person, including a licensee, shall represent that a licence is an approval or an endorsement by the Board.

(7) The Board may impose conditions on a licence and issue directions relating to the activity authorized by the licence.

AR 3/2000 s5;290/2003;68/2005;105/2005;128/2011

Licence to operate as lessee

6(1) A licence to lease quota does not give the lessee authority to produce and market chicken, but authority only to operate leased quota in accordance with

- (a) the lease,
- (b) any conditions imposed on the licence by and any directions issued by the Board, and
- (c) this Regulation.

(2) A licence to lease quota expires automatically on the expiration or termination of the lease under which the quota was leased to the lessee.

Suspension or cancellation of licence

7(1) The Board may suspend, for any period it considers appropriate or cancel a licence

- (a) if the licensee
 - (i) lacks, in the Board's opinion, the experience, equipment or financial responsibility to properly engage in or continue to engage in the activity authorized by the licence,
 - (ii) contravenes the Act, the Plan, this Regulation or an order or direction of the Council or the Board or a condition of the licence,
 - (iii) fails to comply with any technical requirements under the On-Farm Food Safety Assurance Program, or
 - (iv) fails to comply with any technical requirements under the Animal Care Program,

or

- (b) for any other reason not referred to in clause (a) that the Board considers appropriate.

- (2) If a licence is suspended or cancelled under subsection (1), the Board must notify the person to whom the licence was issued of that suspension or cancellation.
- (3) If a licence is suspended or cancelled, the person to whom the licence was issued
- (a) must, on receiving a notice of the suspension or cancellation, immediately cease engaging in the activity 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) Despite subsection (1)(a)(iii) and (iv), where the Board is of the opinion that an authorized producer has failed to comply with any of the requirements under the On-Farm Food Safety Assurance Program or the Animal Care 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 authorized producer or to a person who is licensed as a lessee of quota.

AR 3/2000 s7;290/2003;128/2011;223/2012

Duty to keep records

8(1) A licensee must maintain a complete and accurate record of all matters relating to the activity authorized by the licence, including any of the following records and documents that are pertinent to the activity authorized by the licence:

- (a) records of the placement of chicks;
- (b) invoices showing the number of chicks purchased;
- (c) records showing the number of chicks marketed to any person;
- (d) the name of the person to whom the chicks were marketed;
- (e) transportation records;
- (f) processor receiving records;
- (g) producer payment records;
- (h) grading, trimming or other processing records;
- (i) records showing the amount of chicken marketed by a licensee.

(2) A licensee must

- (a) retain the records and documents required to be kept under subsection (1) for not less than 6 years, and
- (b) on the request of the Board, make the records and documents available for inspection.

Reports and information to be provided

9(1) Reports and information submitted under this section and section 10 must be in the form prescribed by or that is otherwise acceptable to the Board and must include the information required by the Board.

(2) A hatchery must, for each week during which chicks are placed, prepare a report on Friday regarding the number and categories of chicks placed and submit the report to the Board office no later than Wednesday of the following week.

(3) A processor must,

- (a) for each week during which chicken is processed, prepare a report on Friday regarding the amount and categories of chicken processed and submit the report to the Board office no later than Wednesday of the following week, and
- (b) at the end of each day during which chickens are custom killed, prepare a report regarding the amount and categories of chicken custom killed and submit the report to the Board office within 15 days.

(4) An authorized producer must,

- (a) for each week during which chicks are received other than from a hatchery licensed by the Board, prepare a report regarding the number and categories of chicks received and submit the report to the Board office no later than Friday of the following week, and
- (b) for each week during which chicken is marketed by the producer to a person other than a processor, prepare a report on Friday regarding the sale, the categories and the amount of chicken sold and submit the report to the Board office no later than Wednesday of the following week.

(5) Repealed AR 223/2012 s4.

(6) On receiving a request by the Board to do so, a processor must file a statement with the Board, for any period specified by the Board, setting out the following:

- (a) the dates on which the processor intends to process chicken;
- (b) an estimate of the weight of chicken that the processor intends to process;
- (c) the type of chicken that the processor intends to process.

(7) On receiving a request by the Board to do so, an authorized producer must file with the Board a statement, for any period specified by the Board, setting forth the following:

- (a) the dates on which the producer intends to market chicken;
- (b) an estimate of the weight of the chicken that the producer intends to market;
- (c) the type of chicken that the producer intends to market.

AR 3/2000 s9;223/2012

Service charge

10(1) The service charge to be paid by an authorized producer shall be

- (a) prescribed by the Board in an amount per kilogram of live weight of chicken marketed, and
- (b) \$0.16 per kilogram of live weight of chicken, until otherwise prescribed.

(2) A processor who receives chicken from an authorized producer must

- (a) deduct the service charge referred to in subsection (1) from the amount payable to that producer, and
- (b) submit an accounting for the service charge to the Board office, along with the report required by section 9(3)(a).

(3) An authorized producer who markets chicken to a person other than a processor must

- (a) pay the service charge referred to in subsection (1) to the Board, and

- (b) submit an accounting for the service charge to the Board office, along with the report required by section 9(4)(b).

(3.1) Interest shall be paid on unpaid services charges at the rate prescribed by the Board.

(4) A service charge, and the interest prescribed in accordance with subsection (3.1), are debts due to the Board and may be recovered by the Board by civil action for debt.

(5) The Board may use service charges, licence fees, levies and other money paid to it for the purpose of paying its expenses and administering the Plan and the regulations made by the Board.

AR 3/2000 s10;62/2001;68/2005;65/2008;223/2012

Part 2 Marketing

Division 1 Quota

Authorized quota, etc. or permit required

11 No person shall market chicken except pursuant to the following:

- (a) an authorized quota;
- (b) a lease of authorized quota approved by the Board under section 33;
- (c) a communal group production quota;
- (d) a research permit;
- (e) an exemption provided for under the Plan;
- (f) a lease of quota approved by the board in accordance with Part 2.1.

AR 3/2000 s11;223/2012

Minimum price

12 The Board may by resolution

- (a) determine the minimum price to be paid per kilogram to a producer for chicken marketed, and
- (b) determine different prices for different classes, varieties, grades, sizes or kinds of chicken.

Base quota increases

13(1) When the Board considers that general marketing conditions warrant a permanent increase in base quota, that increase must be allocated by the Board by auction in accordance with this section.

(2) The Board must ensure that quota is allocated by auction to authorized producers and to persons eligible to receive licences as authorized producers based on the amount of quota allocation fee the authorized producer or person offers and pays to the Board.

(3) An authorized producer and any person who is eligible to receive a licence as an authorized 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.

14 Repealed AR 223/2012 s7.

Marketing quota calculation

15(1) Subject to any adjustments made pursuant to this Regulation, an authorized producer's marketing quota expressed in kilograms is the number determined by

- (a) multiplying the quota units that are allocated to an authorized producer by the conversion factor established by the Board by resolution,
- (b) then multiplying the product determined under clause (a) by the number of weeks in that producer's production cycle, and

- (c) then multiplying the product determined under clause (b) by the percentage of utilization established by the Board for that production cycle.

(2) For the purposes of subsection (1), a conversion factor may not be established for each individual producer but a conversion factor must be established that is generally applicable to all producers.

AR 3/2000 s15:223/2012

Marketing quota change

16 When the Board considers it appropriate to vary the production of chicken to accommodate an anticipated change in the demand for chicken for the next 12 months or less, the Board may by resolution change the marketing quota by changing the allowed percentage of utilization for the quota units.

Production cycle

17(1) The Board must by resolution establish a production cycle

- (a) for broilers, and
- (b) for roasters.

(2) An authorized producer may change that producer's production cycle

- (a) from a roaster cycle to a broiler cycle established under subsection (1), or
- (b) from a broiler cycle to a roaster cycle established under subsection (1),

by filing a statement of intent to change the production cycle with the Board.

(3) An authorized producer may make application to the Board to produce on a production cycle that does not conform with either the roaster cycle or the broiler cycle established by the Board under subsection (1).

(4) If the Board approves an application made under subsection (3), the Board may impose time limits or other conditions in respect of the matter being approved.

(5) A statement of intent to change a production cycle under subsection (2) or an application under subsection (3) must be in writing, signed by the authorized producer and endorsed by the authorized producer's hatchery and processor.

Authorized quota reallocation

- 18(1)** An authorized producer shall not transfer all or any part of authorized quota.
- (2)** Despite subsection (1), an authorized producer may apply to the Board to have that producer's authorized quota cancelled and reallocated, in whole or in part, to another person who is eligible to become an authorized producer.
- (3)** An application for cancellation and reallocation under this section must be made prior to the completion of the sale of any authorized quota with or without the production facilities and premises.
- (4)** The approval of the reallocation of authorized quota shall not take effect, and the current authorized quota shall not be cancelled, until the completion of the sale and the filing with the Board of any proof that the Board may require.
- (5)** The effective date of the reallocation must be determined by the Board so that the cancellation and reallocation correspond with the end of a particular production cycle.
- (6)** Subject to subsection (7), if an application for cancellation and reallocation is made under this section, a fee of \$200 is payable to the Board and that fee must accompany the application for the cancellation and reallocation.
- (7)** A fee is not payable under subsection (6) if
- (a)** there is no change in beneficial ownership of the production facilities and premises for which there is a reallocation of authorized quota, or
 - (b)** the application is for reallocation to a person within the family.
- (8)** If an authorized producer has overmarketed and the authorized quota is reallocated, the person to whom the authorized quota has been reallocated must reduce future marketings in accordance with section 23(2).
- (9)** If an authorized producer has overmarketed, the authorized quota may not be reallocated until all outstanding levies and judgments in respect of the overmarketing are paid to the Board.
- (10)** Application must be made to the Board for approval of any transfer from one person to another of an ownership interest except for an ownership interest in

- (a) a publicly traded company listed on a recognized stock exchange, or
- (b) a co-operative that has more than 200 members.

AR 3/2000 s18;124/2003;223/2012

Communal group production quota

19(1) A communal group may apply for an allocation of communal group production quota by filing a completed application form provided by the Board.

(2) The Board must grant communal group production quota to an applicant if

- (a) the communal group does not hold any authorized quota, and
- (b) the communal group resides on the same parcel of land on which the production facilities are located at which the chicken is produced.

(3) Chicken produced under a communal group production quota must only be

- (a) consumed by members of the communal group, or
- (b) marketed to consumers from
 - (i) the land referred to in subsection (2)(b),
 - (ii) land that is adjacent to the land referred to in subsection (2)(b), or
 - (iii) a stall at a farmers' market.

(4) An applicant for a communal group production quota must pay to the Board a service charge of \$250 at the time of making the application for the quota, and thereafter the holder of the communal group production quota must pay to the Board an annual service charge of \$250 by January 31 of each year.

(5) If the annual service charge is not paid by January 31 in the year it is due, the Board may cancel the communal group production quota.

(6) A communal group production quota holder must, if the holder acquires chicks from outside Alberta, report to the Board in writing the number of chicks so acquired within 2 weeks after the chicks are delivered to the holder.

- (7) A communal group production quota may not be sold, transferred, reallocated or divided.
- (8) If the holder of a communal group production quota is granted an allocation or reallocation of an authorized quota, the communal group production quota is cancelled on that allocation or reallocation of the authorized quota.
- (9) A communal group production quota may be reduced or cancelled, either permanently or for such period as the Board considers appropriate, if a communal group quota holder
- (a) produces in excess of 6000 chickens in any calendar year,
 - (b) fails to comply with subsection (3)(b) when marketing any chicken, or
 - (c) fails to report the information required by subsection (6).
- (10) Before the Board proceeds to amend this section, the Board must
- (a) give written notice by ordinary mail to the communal group production quota holders of the proposed amendments,
 - (b) hold a public meeting at which communal group production quota holders may make representations to the Board about the proposed amendments, and
 - (c) prior to amending this section, consider the representations made.

Financial interest in premises

- 20(1)** Any person who holds a financial interest by means of a mortgage registered under the *Land Titles Act* in respect of the production facilities and premises to which an authorized quota has been allocated may register that interest with the Board in a manner that is satisfactory to the Board.
- (2) If a mortgagee registers an interest with the Board under subsection (1), that mortgagee must at the same time also register with the Board a written acknowledgment by the authorized producer of the mortgagee's financial interest in the production facilities and premises.
- (3) If an interest is registered under subsection (1), the Board must

- (a) immediately notify the authorized producer who has been allocated the authorized quota of the registration, and
- (b) notify the mortgagee of any application to reallocate or lease all or any part of the authorized quota to which the registration applies.

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

(5) Only one financial interest may be registered in respect of an authorized quota.

AR 3/2000 s20;223/2012

Authority of Board

21(1) If a mortgagee becomes the legal or equitable owner of production facilities and premises due to a judicial or extra-judicial enforcement of the mortgage, the Board may do one or more of the following:

- (a) allow the mortgagee to market chicken pursuant to the authorized quota granted in respect of the production facilities and premises for a period not exceeding 2 years, during which time the mortgagee must endeavour to find an appropriate buyer;
- (b) set aside for a period not exceeding 2 years the authorized quota allocated in respect of the production facilities and premises;
- (c) allocate part or all of the authorized quota to a person who purchases the production facilities and premises from the mortgagee, if the Board is satisfied that the purchaser is or intends to become an authorized producer;
- (d) allocate part or all of the authorized quota to the mortgagee, if the Board is satisfied that the mortgagee intends to become an authorized producer.

(2) If an authorized quota has not been allocated within the time set out in subsection (1)(a) or (b), the Board may

- (a) cancel the authorized quota, or
- (b) on written application by the mortgagee, extend the time set out in subsection (1)(a) or (b).

Appointment of attorney

22(1) Subject to subsections (4) and (5), a person who has loaned money to an authorized producer may apply to the Board to register an appointment of attorney.

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

(3) Only one appointment of attorney may be registered in respect of an authorized producer.

(4) The Board shall not register an appointment of attorney if there is a financial interest under section 20 registered in respect of the production facilities and premises of that authorized producer.

(5) The Board shall not register an appointment of attorney unless it is signed by the authorized 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 authorized quota specified in the appointment of attorney,
- (b) the lease of the authorized quota specified in the appointment of attorney, or
- (c) the transfer of an ownership interest in the authorized quota specified in the appointment of attorney,

unless the person appointed as the attorney signs the application.

Division 2

Variation From Authorized Marketing

Marketing in excess of or less than marketing quota

23.01(1) For the purposes of this Part, “production sleeve” means an amount of production expressed as a percentage of marketing quota, and includes an under-production sleeve, which means a specified percentage less than 100% of the marketing quota allocated to a producer, and an over-production sleeve, which means a specified percentage in excess of 100% of the marketing quota allocated to a producer.

(2) The Board may establish production sleeves and amend them from time to time as necessary for the purpose of regulating

variations from authorized quotas, responding to market changes in a timely manner and assisting in the achievement of 100% quota utilization.

AR 128/2011 s6

Marketing in excess of marketing quota

23(1) An authorized producer shall not market chicken in excess of the marketing quota allocated to that producer.

(2) If an authorized producer markets chicken in contravention of subsection (1), the Board must in a subsequent production cycle, without permanently reducing the authorized quota allocated to that producer, reduce the weight of chicken that the producer may market by an amount equal to the weight of the chicken that was marketed in excess of that producer's marketing quota.

(3) An authorized producer who has marketed chicken contrary to subsection (1) must pay to the Board a levy of

- (a) \$0.44 per kilogram for each kilogram of chicken marketed in excess of the lower limit of the over-production sleeve but less than the upper limit of the over-production sleeve established by the Board pursuant to section 23.01, and
- (b) \$0.88 per kilogram for each kilogram of chicken marketed in excess of the upper limit of the over-production sleeve established by the Board pursuant to section 23.01.

(4) The levy provided for under subsection (3) must be paid even though the authorized producer reduces the excess marketings in accordance with subsection (2).

(5) The levy provided for under subsection (3) must be paid within 30 days from the date that the authorized producer was billed for the levy by the Board.

(6) If the levy provided for under subsection (3) is not received by the Board within 30 days from the date that the authorized producer is billed for the levy by the Board, that producer must pay an additional levy of \$0.44 a kilogram.

(7) A levy provided for under this section is a debt due to the Board and may be recovered by the Board by civil action for debt.

AR 3/2000 s23;83/2010;128/2011

Marketing less than marketing quota

24 If an authorized producer markets less chicken than that producer is permitted to market pursuant to the marketing quota

allocated to that producer, that producer's allowed marketing of chicken must be increased in a subsequent production cycle by the lesser of

- (a) the marketing deficit, or
- (b) the under-production sleeve established by the Board pursuant to section 23.01 multiplied by the producer's marketing quota in effect at the time of the marketing deficit.

AR 3/2000 s24;128/2011

Establishment of period for marketing correction

25 The Board must establish by resolution when

- (a) reductions in marketings are to occur for the purpose of section 23(2), and
- (b) increases in marketings are to occur for the purpose of section 24.

Late or early marketings

26 If a processor changes the date on which an authorized producer markets chicken from that set out in the information provided to the Board under section 9(6) and (7) in order to meet a market demand, and as a result of the change in the date the producer markets more or less chicken than allowed under that producer's marketing quota, the Board may

- (a) waive any levies that resulted from the delay in marketings, or
- (b) allow increased marketings in subsequent production cycles to compensate for undermarketings that result from the advance in marketings.

27 Repealed AR 83/2010 s5.

28 to 28.2 Repealed AR 223/2012 s11.

Division 3 Premises

Approved premises

29 Unless otherwise authorized in writing by the Board, no authorized producer shall market chicken other than that produced in the approved registered production facilities and premises for which the authorized quota was allocated.

Premises requirements

30(1) Prior to the commencement of production, the authorized producer must register with the Board the production facilities and premises in which the production is to take place.

(2) If a person applies to register production facilities and premises with the Board, that person must provide to the Board

- (a) a copy of the current certificate of title for the land on which the production facilities and premises are located,
- (b) a site plan, and
- (c) any other information that the Board requires.

Division 4 Quota Limits and Dealing With Quota

Quota limit

31(1) An individual, whether alone or through an interest in a corporation, partnership, unincorporated organization or group of individuals, shall not hold more than 5% of the total of all authorized quota allocated by the Board.

(2) Subject to subsection (3), a corporation, partnership, unincorporated organization or group of individuals shall not hold more than 10% of all authorized quota allocated by the Board.

(3) An individual shall not exceed directly or indirectly the limit established under subsection (1) through holdings in a corporation, partnership, unincorporated organization or group of individuals.

(4) No more than 10% of all authorized quota allocated by the Board may be produced at one production facility and premises.

(5) For the purpose of subsections (1) and (2), the amount of authorized quota must be determined as follows:

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- (a) the holding of authorized quota for an individual is the sum of
- (i) the authorized quota held by that individual, and
 - (ii) the proportionate share of any authorized quota in which that individual has an ownership interest through a corporation or partnership or an unincorporated organization referred to in section 1(p)(ii) or group of individuals referred to in section 1(p)(iii),
- and
- (iii) any authorized quota in which the individual has an ownership interest as a lessee of quota;
- (b) the holdings of a corporation or partnership or an unincorporated organization referred to in section 1(p)(ii) or group of individuals referred to in section 1(p)(iii) is the sum of
- (i) the authorized quota held by that corporation, partnership, unincorporated organization or group of individuals,
 - (ii) the proportionate share of any authorized 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 authorized quota in which the corporation, partnership, unincorporated organization or group of individuals has an ownership interest as a lessee of quota.
- (6)** The Board shall not allocate, reallocate or approve the lease of any authorized quota if as a result of that allocation, reallocation or lease any person would hold quota in excess of that allowed under subsection (1) or (2).
- (7)** The restriction set forth in subsection (3) does not apply to
- (a) the ownership interest of a producer in
 - (i) a publicly traded company listed on a recognized stock exchange, or

(ii) a co-operative that has more than 200 members;

(b) the reallocation of quota to a person under a will or under the *Wills and Succession Act*.

(8) If authorized quota is reallocated under subsection (7)(b), any subsequent allocation or reallocation, except a further reallocation under subsection (7)(b), is subject to subsections (1) to (4).

AR 3/2000 s31;43/2004;31/2012

Authorized quota reduction

32(1) The Board may reduce or cancel an authorized quota if the authorized producer to whom it is allocated or the person to whom it has been leased pursuant to section 33

- (a) has failed to observe, perform or carry out the provisions of the Act, this Regulation or any order of the Council or the Board;
- (b) is not utilizing or has voluntarily given up all or part of that producer's authorized quota or portion leased;
- (c) has had that producer's or lessee's licence revoked or suspended for any reason, including but not limited to a failure to comply with any technical requirements under the On-Farm Food Safety Assurance Program or the Animal Care Program;
- (d) has not received the approval of the Board for any change of ownership interest in that producer if an authorized quota has been allocated or leased in the name of a company.

(2) Where a producer or lessee exceeds the stocking density requirements of the Animal Care Program, the Board may impose a production penalty of 20% of that producer's or lessee's allocated production until the producer or lessee complies with the requirements of the Animal Care Program.

AR 3/2000 s32;128/2011

Lease of quota

33(1) Subject to the approval of the Council, the Board may allow an authorized producer to lease out any amount of that authorized producer's quota up to a percentage determined by the Board through a Board Order or Directive to

- (a) another authorized producer, or

(b) a person who is licensed as a lessee of quota.

(1.1) Subject to the approval of the Council, the Board may establish criteria through a Board Order or Directive for allowing an authorized producer to lease out quota under subsection (1).

(2) An application to lease may be made on the basis of kilograms or quota units.

(3) An application to lease quota must

- (a) be made in writing to the Board by the authorized producer,
- (b) be endorsed by the proposed lessee,
- (c) specify whether the lease is for a number of kilograms per production cycle or quota units per production cycle and provide details, and
- (d) include any other information that the Board requires.

(4) If an authorization to lease is granted by the Board, the Board may make the authorization subject to those terms or conditions that the Board considers appropriate in the circumstances.

(5) If an approval for a lease of authorized quota has been granted by the Board to a person who is licensed as a lessee of quota, the following provisions apply to that person in the same manner as if that person were the authorized producer:

section 3.1;
section 8;
section 9;
section 10;
section 15;
section 17;
section 18;
section 20;
section 21;
section 22;
section 23;
section 24;
section 26;
section 29;
section 30;
section 35;
section 36;
section 37;

section 38;
section 40.

- (6)** The authorized producer and lessee are
- (a) jointly responsible for reducing the marketing of chicken in accordance with section 23(2), and
 - (b) jointly and severally liable for
 - (i) all service charges assessed under this Regulation,
 - (ii) all levies assessed under this Regulation, and
 - (iii) any judgment obtained in respect of service charges or levies assessed under this Regulation.
- (7)** If a lease is terminated and any reductions in the marketing of chicken imposed under section 23(2) are not completed, the remaining reductions in the marketing of chicken are the responsibility of
- (a) the authorized producer who leased the quota to the lessee, if the lessee was not an authorized producer, and
 - (b) the lessee, if the lessee was an authorized producer.
- (8)** The Board shall not allow a lease of quota from an authorized producer to a lessee if
- (a) the authorized producer has outstanding service charges or levies payable to the Board, or
 - (b) the proposed lessee would exceed the quota limit established under section 31.
- (9)** Despite anything in this Regulation, none of the following permits a lessee to exercise the rights of a licensed producer under Part 2 or 3 of the Plan:
- (a) any authorization granted by the Board authorizing a lessee to lease quota;
 - (b) a licence granted by the Board licensing a person to operate as a lessee of quota;
 - (c) a lease of quota to a lessee.

AR 3/2000 s33;223/2012;153/2017

Permit

34 The Board may issue research permits for research purposes.

Records not available

35 If records are not available to the Board in respect of an authorized producer, that producer is deemed

- (a) if the producer has been engaged in production for the past 12 months,
 - (i) to have marketed the amount of chicken determined by multiplying the number of chicks delivered to the producer by the average weight of chicken marketed by the producer in the past year, and
 - (ii) to have marketed all of the chicken that grew out of chicks that were delivered to the producer within 3 months of the delivery of the chicks, and
- (b) if the producer has not been engaged in production for the past 12 months, to have marketed the amount of chicken determined by multiplying the number of chicks delivered to the producer by the average live weight of all chicken marketed in Alberta of the same weight category as determined by statistics derived from Agriculture Canada Poultry Market Report number 52, or the current successor to that Report, in the year prior to the year that the chicken was marketed.

AR 3/2000 s35;223/2012

Division 5 Prohibitions

Processor

36 A processor shall not purchase chicken from any person other than an authorized producer or a processor.

Producer

37 An authorized producer shall not market chicken to any person other than a licensed processor or a consumer, unless the Board has granted permission in writing to that producer to do so.

Selling below minimum price

38 An authorized producer shall not market chicken at a price that is less than the minimum price that is established by the Board.

Purchasing below minimum price

39 A processor shall not purchase chicken for an amount that is less than the minimum price that is established by the Board.

Custom killing

40 A processor shall not in a calendar year custom kill more than 2000 chickens for any person other than an authorized producer.

Marketing re reduced weight

41(1) On being advised in writing by the Board that pursuant to section 23 the Board has reduced the weight of chicken that an authorized producer is authorized to market, a processor shall not market any chicken in excess of the reduced weight of chicken, if any, that the producer is authorized to market unless the processor first obtains written permission from the Board to do so.

(2) If the Board grants permission for the purposes of subsection (1), the permission must be in writing and specify the terms on which the marketings can occur.

Part 2.1 Special Marketing Programs

New Market Development Program

41.1(1) For the purposes of this section and section 41.2,

- (a) “new market development lease price” means the amount payable by a producer to a processor for the opportunity to lease new market development quota in accordance with this section;
- (b) “New Market Development Program” means a program under which the Board may make available, offer, distribute and manage new chicken production quota units for the purpose of developing a new market;
- (c) “new market development quota” means the new market development quota leased by the Board to an authorized producer in accordance with this section;
- (d) “new market supply agreement” means an agreement between a processor and an authorized producer concerning new market development quota as referred to in section 41.2;

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- (e) “period” means a period as determined under a Canada Act by the Canadian Chicken Marketing Agency;
- (f) “processor-specific offer” means an offer of new market development quota made by the Board where
- (i) the new market development quota is offered pursuant to a request made to the Board by a processor under subsection (3)(b), and
 - (ii) the producers to whom the offer is made have a Board-approved new market supply agreement in place with that processor.
- (2)** The Board may establish and operate a New Market Development Program in accordance with this section.
- (3)** Within the time specified by a resolution of the Board, a processor may apply to the Board to request that the Board make
- (a) an offer of new market development quota to all authorized producers, or
 - (b) a processor-specific offer to only those authorized producers who have a Board-approved new market supply agreement in place with that processor.
- (4)** An application under subsection (3) must be in the form and provide the information prescribed by or that is otherwise acceptable to the Board.
- (5)** If the Board determines that the application is acceptable, the Board may determine
- (a) the production period for which the offer of new market development quota will be made, and
 - (b) the new market development lease price that will apply to the offer.
- (6)** The Board must advise the applicant of its determination under subsection (5).
- (7)** Within the time specified by a resolution of the Board,
- (a) all authorized producers who are eligible to bid with respect to an offer of new market development quota may file with the Board a bid to lease new market development quota, or

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- (b) in the case of a processor-specific offer, only authorized producers who have a Board-approved new market supply agreement in place with that processor are eligible to bid.
- (8)** A bid must
- (a) be in a form satisfactory to the Board, and
 - (b) set out the maximum number of kilograms of new market development quota that the authorized producer proposes to lease.
- (9)** The maximum number of kilograms of new market development quota that an authorized producer may bid is equal to the marketing quota that would be available to that producer if the percentage of utilization in effect in the period were 100%.
- (10)** If the total kilograms of bids filed by authorized producers is less than the amount of chicken required by the applicant, the offer is void unless
- (a) the applicant agrees to reduce the applicant's requirement so that it equals the amount of the bids, or
 - (b) the Board and applicant agree that the Board will make a new offer to authorized producers at a reduced new market development lease price.
- (11)** As soon as practicable after the closing date established under subsection (7), the Board must
- (a) distribute the total amount of new market development quota in rounds of one quota unit to each eligible bidder until all available new market development quota is distributed, and
 - (b) advise each authorized producer who bid of
 - (i) the amount of new market development quota that the producer is eligible to lease,
 - (ii) the new market development lease price, and
 - (iii) the time within which a bidder must advise the Board as to whether the bidder will in fact lease all or any of the new market development quota being offered by the Board.
- (12)** On receipt of confirmation from the applicant processor that an authorized producer has paid the amount payable under subsection (11)(b)(ii), the Board must

- (a) lease new market development quota to that producer, and
- (b) specify in the lease the number of kilograms of new market development quota and the production period to which the lease applies.

(13) The Board may by resolution establish rules, procedures and policies respecting

- (a) the making of applications, and the filing of bids and submissions under this section,
- (b) the considerations, decisions and communication required concerning a Board offer of new market development quota under this section, and
- (c) the operation and administration of the New Market Development Program and the lease of new market development quota under this section.

(14) The Board may revoke a lease of new market development quota if a processor or an authorized producer fails to comply with

- (a) a provision of Part 1 or Part 2 that applies to that person as a processor or an authorized producer,
- (b) a term of the lease of new market development quota, or
- (c) a resolution issued by the Board under subsection (13).

AR 223/2012 s14

New market supply agreements

41.2(1) If a processor and an authorized producer wish to establish a new market supply agreement, the agreement, even though it is to be negotiated between the processor and the producer, is not effective until the Board has approved

- (a) a lease of new market development quota to the authorized producer, under section 41.1, and
- (b) the new market supply agreement that will apply to the lease, under this section.

(2) A processor or an authorized producer who wishes to establish a new market supply agreement must submit the proposed new market supply agreement to the Board at the time and in the form prescribed by the Board or that is otherwise acceptable to the Board.

- (3) A submission under subsection (2) must contain any other information prescribed by or that is otherwise acceptable to the Board.
- (4) After considering the proposed new market supply agreement the Board may do one or more of the following:
- (a) approve the new market supply agreement;
 - (b) confirm an authorized producer's eligibility for a lease of new market development quota under section 41.1(11)(b);
 - (c) impose any conditions and issue any directions that the Board considers appropriate in respect of the new market supply agreement or lease of new market development quota;
 - (d) refuse to approve the new market supply agreement.
- (5) The Board must notify the producer and the processor of its decisions and of any conditions imposed or directions issued under subsection (4).
- (6) The Board may by resolution establish rules, procedures and policies respecting
- (a) the submissions referred to in subsections (2) and (3),
 - (b) the consideration, approvals, conditions and directions referred to in subsection (4), and
 - (c) the operation and administration of the new market supply agreements referred to in this section and section 41.1.
- (7) The Board may revoke an approval granted under subsection (4)(a) if a processor or an authorized producer fails to comply with
- (a) a provision of Part 1 or Part 2 that applies to that person as a processor or as an authorized producer,
 - (b) a provision of an approved new market supply agreement,
 - (c) a condition imposed or direction issued under subsection (4), or
 - (d) a resolution issued under subsection (6).

Organic Chicken Lease Program

41.3(1) For the purposes of this section,

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- (a) “organic chicken lease price” means the amount payable to the Board, for the opportunity to lease organic chicken production quota in accordance with this section;
- (b) “Organic Chicken Lease Program” means a program under which the Board may make available, distribute and manage organic chicken production quota units for the purpose of assisting organic chicken producers in developing a market for organic chicken;
- (c) “organic chicken production quota” means the quota that may be leased by the Board to an authorized producer or other eligible applicant, permitting the production and marketing of organic chicken in accordance with this section.
- (2) The Board may establish and operate an Organic Chicken Lease Program under which the Board may make available 200 000 kilograms of live weight organic chicken annually, for lease at the organic chicken lease prices determined by the Board under this section.
- (3) The maximum amount of organic chicken production quota that may be leased by the Board to any one producer is 30 000 kilograms of live weight organic chicken annually.
- (4) When determining the organic chicken lease price that is to be paid to the Board for a lease of organic chicken production quota, the Board is to take into consideration, where possible,
- (a) the new market development lease price referred to in section 41.1, or
- (b) if no new market development lease price has been established for the year in which organic chicken production is to be leased, an estimate by the Board of what the new market development lease price would be, having regard to current market conditions.
- (5) On or before March 1st in each year in which organic chicken production quota is to be leased, or such other date as the Board may set, an authorized producer or any other person interested in producing and marketing organic chicken may apply to the Board to be considered for a lease of organic chicken production quota.
- (6) An application made under subsection (5) must
- (a) be in the form prescribed by or that is otherwise acceptable to the Board,

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- (b) specify the production facilities and premises at which the applicant intends to carry out the organic chicken production, and
 - (c) contain any other information that the Board requests.
- (7) The Board may refuse to grant a lease of organic chicken production quota to an applicant if, in the Board's opinion,
- (a) the applicant lacks the experience, equipment or financial responsibility to properly engage in organic chicken production,
 - (b) the applicant fails to establish to the satisfaction of the Board that the chicken that is to be produced at the production facilities and premises specified in the application will in fact be certified as organically produced chicken by
 - (i) an organization recognized by the Board as qualified to certify chicken production as organic chicken production, or
 - (ii) the appropriate persons representing the Department of Agriculture and Rural Development who are qualified to certify chicken production as organic chicken production,
 - (c) the applicant fails to comply with any technical requirements under the on-farm Food Safety Assurance Program, or
 - (d) the applicant fails to comply with any technical requirements under the Animal Care Program.
- (8) As soon as practicable after the closing date established under subsection (5),
- (a) the Board must consider all the applications and determine which applicants, if any, are acceptable to the Board,
 - (b) if the Board determines that the total amount of organic chicken production quota being applied for by all the eligible applicants exceeds the 200 000 kilograms of live weight organic chicken production available annually, the Board must distribute organic chicken production quota in rounds of one kilogram of live weight organic chicken to each eligible applicant until all of the available organic chicken production quota is distributed, and

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- (c) on determining that an application is acceptable, the Board must advise the eligible applicant of the following:
- (i) that the application has been accepted by the Board and the applicant is eligible to lease organic chicken production quota;
 - (ii) the amount of organic chicken production quota that is being offered to the applicant for leasing;
 - (iii) the organic chicken lease price being offered to the applicant;
 - (iv) the time within which the applicant must advise the Board as to whether the applicant will in fact lease all or any of the organic chicken production quota being offered to the applicant.
- (9)** Once an eligible applicant has advised the Board that the applicant accepts the offer by the Board to lease organic chicken production quota,
- (a) the Board must lease that quota to the applicant, and
 - (b) that quota becomes effective at the time that the applicant makes payment in full to the Board for that quota.
- (10)** If a person leases organic chicken production quota, the following apply:
- (a) the person becomes the lessee of the quota;
 - (b) the lease of the quota expires on the last day of February following the year in which the lease was granted;
 - (c) the production of organic chicken under the quota must take place at the production facilities and premises specified in the application;
 - (d) if the production facilities and premises at which the production of the organic chicken under the quota takes place are sold, transferred, assigned, sub-leased or otherwise divided or disposed of, the lease of the quota is cancelled unless otherwise directed by the Board;
 - (e) all the organic chicken that is produced or that is authorized to be produced under the quota must be produced and marketed within the term specified in the lease;

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- (f) in the case of any underproduction of organic chicken under the quota that is existing at the time of the termination of the lease, the underproduction is not eligible to be carried over and produced under any new lease of organic chicken production quota that is granted to the person;
 - (g) the person shall not market organic chicken that is in excess of the quota;
 - (h) despite clause (g), in the case of the person marketing organic chicken that is in excess of the quota, the person must pay to the Board a levy that is equal to
 - (i) the organic chicken lease price for each kilogram of organic chicken that is marketed in excess of 100% but not in excess of the lower range of the overproduction sleeve established under section 23.01,
 - (ii) \$0.44 a kilogram for each kilogram of organic chicken that is marketed in excess of the lower range of the overproduction sleeve but less than the upper range of the overproduction sleeve established under section 23.01, and
 - (iii) \$0.88 a kilogram for each kilogram of organic chicken that is marketed in excess of the upper range of the overproduction sleeve established under section 23.01;
 - (i) the following provisions apply to the person as if the person were an authorized producer:
 - section 3.1;
 - section 8;
 - section 9;
 - section 10;
 - section 15;
 - section 17;
 - section 18;
 - section 20;
 - section 21;
 - section 22;
 - section 29;
 - section 30;
 - section 35;
 - section 36;
 - section 37;

section 38;
section 40.

(11) The Organic Chicken Lease Program is subject to the following conditions:

- (a) a person may only be granted leases of organic chicken production quota one year at a time for a maximum of 7 years;
- (b) any production facilities and premises at which organic chicken are produced under an organic chicken production quota may only be used for that purpose for a maximum of 7 years;
- (c) if the program is terminated by the Board before the conclusion of the 7-year period referred to in clauses (a) and (b), the maximum amount of time
 - (i) for which a person may be granted one-year leases of organic chicken production quota, and
 - (ii) that the production facilities and premises may be used to produce organic chicken under an organic chicken production quota,

is restricted to that shorter period of time.

(12) The Board may by resolution establish rules, procedures and policies respecting

- (a) the making of applications or submission of information, acceptances or payment to the Board under this section,
- (b) the considerations, decisions and communication required of the Board under this section, and
- (c) the operation and administration of the Organic Chicken Lease Program under this section.

(13) The Board may revoke a lease of organic chicken production quota if a processor or producer fails to comply with

- (a) this section, or a provision of Part 1 or Part 2 that applies to that person as the result of subsection (10)(i), or
- (b) a resolution issued by the Board under subsection (12).

AR 223/2012 s14

Direct Marketing Lease Program

41.4(1) For the purposes of this section,

- (a) “consumer” includes a restaurant or restaurant chain;
- (b) “direct marketer” means an authorized producer who is engaged in direct marketing;
- (c) “direct marketing” means the production and sale of chicken from the primary producer directly to the consumer of the product through the producer’s own supply chain of chick purchasing, production, promotion, transportation and distribution;
- (d) “direct marketing lease price” means the amount payable by a producer to the Board, for the opportunity to lease direct marketing production quota in accordance with this section;
- (e) “Direct Marketing Lease Program” means a program under which the Board may make available, distribute and manage chicken production quota units for the purpose of assisting direct marketers in developing a direct marketing business;
- (f) “direct marketing production quota” means the quota that may be leased by the Board to an authorized producer permitting the producer to produce and direct market chicken in accordance with this section.

(2) The Board may establish and operate a Direct Marketing Lease Program, under which the Board may make available 300 000 kilograms of live weight chicken annually, for lease at the direct marketing lease price determined by the Board.

(3) The maximum amount of direct marketing production quota that may be leased by the Board to any one direct marketer

- (a) shall not exceed the marketing quota allocated to the authorized producer in accordance with Part 1 or Part 2 of this Regulation, and
- (b) shall not exceed 60 000 kilograms of live weight chicken production annually.

(4) The Board may not grant a lease of direct marketing production quota for more than one year at a time.

(5) For the purposes of this section, the Board shall, no later than August 15th of each year, prescribe for the following calendar year

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- (a) the eligibility criteria for applications,
 - (b) the direct marketing lease price, and
 - (c) the time within which applications for leases of direct marketing production quota and acceptance of offers to lease direct marketing production quota are to be submitted to the Board.
- (6)** An authorized producer may apply to the Board for a lease of direct marketing production quota in the form prescribed by or that is otherwise acceptable to the Board.
- (7)** An application under subsection (6) must
- (a) identify the direct marketing, production, promotion, transportation and distribution channels and activities for which the Board's approval is sought, in the form prescribed by or that is otherwise acceptable to the Board,
 - (b) specify the production facilities and premises at which the applicant intends to produce chicken in accordance with this section,
 - (c) confirm that
 - (i) the applicant intends to direct market a minimum of 7000 kilograms of live weight production annually, and
 - (ii) a licensed provincially or federally inspected processor will process the chicken,
 - (d) contain any other information that the Board requests, and
 - (e) be received by the Board within the deadline established under subsection (5)(c).
- (8)** The Board may refuse to grant a lease of direct marketing production quota to an applicant if, in the Board's opinion,
- (a) the applicant lacks or fails to demonstrate the experience, equipment or financial responsibility to establish and maintain the direct marketing, production, promotion, transportation and distribution channels identified in its application to the Board under subsection (6),
 - (b) the applicant has outstanding service charges or levies payable to the Board, or

- (c) the applicant fails to meet the criteria for applicant eligibility established under subsection (5)(a).

(9) As soon as practicable after the closing date for the receipt of applications for direct marketing production quota,

- (a) the Board must consider all the applications and determine which applications, if any, are acceptable to the Board,
- (b) if the Board determines that the total amount of direct marketing production quota being applied for by all the acceptable applicants exceeds the 300 000 kilograms of live weight production available annually, the Board must distribute direct marketing production quota in rounds of 1 kilogram of live weight chicken to each acceptable applicant until all of the available direct marketing production quota is distributed, and
- (c) on determining that an application is acceptable, the Board must advise the applicant of the following:
- (i) that the application has been accepted by the Board and the applicant is eligible to lease direct marketing production quota;
- (ii) the amount of direct marketing production quota that is being offered to the applicant for leasing;
- (iii) the direct marketing lease price being offered to the applicant;
- (iv) the time within which the applicant must advise the Board as to whether the applicant will in fact lease all or any of the direct marketing production quota being offered to the applicant.

(10) Once an applicant has advised the Board that the applicant accepts the offer by the Board to lease direct marketing production quota, and the applicant has remitted full payment to the Board for the full amount of the direct marketing production quota,

- (a) the Board must lease the quota to the applicant, and
- (b) the quota becomes effective at the time the applicant makes payment in full to the Board for the quota.

(11) Where a person leases direct marketing production quota, the following applies:

- (a) the person becomes the lessee of the quota;
- (b) the lease of the quota expires on December 31st of the year for which the lease was granted;
- (c) the production of chicken under the quota must take place at the production facilities and premises specified in the application submitted to the Board by the person;
- (d) if the production facilities and premises at which the production of the chicken under the direct marketing quota takes place are sold, transferred, assigned, sub-leased or otherwise divided or disposed of, the lease of the direct marketing quota is cancelled unless otherwise directed by the Board;
- (e) the production of chicken under the quota must comply with the direct marketing, production, promotion, transportation and distribution channels and activities set out in the application to the Board and approved by the Board under subsection (9);
- (f) all of the chicken that is produced or that is authorized to be produced under the direct marketing quota must be produced and marketed within the production cycles established under section 17;
- (g) in the case of any underproduction existing at the time of the termination of the lease, the producer's allowed marketing of chicken must be increased in a subsequent production cycle by the lesser of
 - (i) the marketing deficit, or
 - (ii) 5% of the producer's marketing quota in effect at the time of the marketing deficit;
- (h) the person is not to produce direct marketing production quota in excess of the amount permitted to be marketed under the quota;
- (i) despite clause (h) in the case of the person marketing chicken in excess of that which is permitted under the quota, the Board must in a subsequent production cycle, without permanently reducing the authorized quota allocated to the producer, reduce the weight of chicken that was marketed in excess of the producer's marketing quota, and the person must pay to the Board a levy that is equal to

- (i) \$0.44 for each kilogram of chicken marketed in excess of the lower range of the overproduction sleeve but less than the upper range of the overproduction sleeve established by the Board through a Board Order or Directive under section 23.01, and
- (ii) \$0.88 for each kilogram of chicken marketed in excess of the upper range of the overproduction sleeve established by the Board through a Board Order or Directive under section 23.01.

(12) The Board may by resolution establish rules, procedures and policies respecting

- (a) the making of applications or submission of information, acceptances or payment to the Board under this section,
- (b) the considerations, decisions and communication required of the Board under this section, and
- (c) the operation and administration of the Direct Marketing Lease Program under this section.

(13) The Board may revoke a lease of direct marketing production quota if a processor or authorized producer fails to comply with

- (a) this section, or a provision of Part 1 or Part 2 that applies to that person as a processor or as an authorized producer, or
- (b) a resolution issued by the Board under subsection (12).

(14) After the Direct Marketing Lease Program has been in operation for 3 years, the Board must present a report in respect of the program at the annual meeting that takes place following the conclusion of that 3rd year for the purposes of reviewing the program's effectiveness in assisting direct marketers to develop a sustainable business.

AR 223/2012 s14

Specialty Chicken Lease Program

41.5(1) For the purposes of this section,

- (a) "A-Period" means the national allocation period as published in the Chicken Farmers of Canada's allocation calendar;

- (b) “authorized specialty chicken producer” means an authorized producer who holds a valid specialty chicken licence and a valid specialty chicken certificate;
- (c) “quota” means quota as defined in section 1(p) of the *Alberta Chicken Producers’ Plan Regulation* (AR 70/93);
- (d) “specialty chicken” means chicken belonging to any class listed in Schedule 4 of the *Canadian Chicken Licensing Regulations* SOR/2002-22;
- (e) “specialty chicken certificate” means the certificate issued by Alberta Chicken Producers to authorized producers certified annually to place and market specialty chicken in Alberta;
- (f) “specialty chicken commitment form” means the form set out in Schedule 5 of the *Canadian Chicken Licensing Regulations* SOR/2002-22;
- (g) “specialty chicken licence” means the specialty chicken licence issued by the Chicken Farmers of Canada to an authorized producer under the *Canadian Chicken Licensing Regulations* SOR/2002-22;
- (h) “specialty lease price” means the lease price per kilogram of live-weight chicken that is to be paid to the Board for a lease of specialty production quota by an authorized specialty chicken producer;
- (i) “specialty production quota” means the live-weight kilograms of specialty chicken allotted on behalf of the Chicken Farmers of Canada to the Board to lease to an authorized specialty chicken producer.

(2) The Board may establish and operate a Specialty Production Lease Program under which authorized specialty chicken producers may apply for leases of specialty production quota at lease prices determined by the Board.

(3) For the purpose of this section, the Board may establish the following by Board order, directive or policy:

- (a) the criteria for applicant eligibility;
- (b) the criteria for establishing the lease price per kilogram of live-weight chicken;
- (c) the lease price per kilogram of live-weight chicken that is to be paid to the Board for specialty production quota;

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- (d) the times within which applications for leases of specialty production quota and acceptance of offers to lease specialty production quota are to be made to the Board, and the format of the application required by the Board.
- (4) An authorized specialty chicken producer may apply to the Board for a lease of specialty production quota in the form established by or that is otherwise acceptable to the Board by a date set by the Board.
- (5) An application made under subsection (4)
- (a) must specify the premises and production facilities at which the applicant intends to carry out the specialty chicken production,
 - (b) must specify the breed or breeds of chicken the applicant intends to produce,
 - (c) must provide written confirmation to the Board that a licensed hatchery will supply the chicks,
 - (d) must contain written confirmation to the Board that a licensed provincially or federally inspected processor will process the chicken, and
 - (e) must contain any other information that the Board requests.
- (6) As soon as practical after the closing date for the receipt of specialty chicken commitment forms for specialty production lease under the *Canadian Chicken Licensing Regulations* SOR/2002-22,
- (a) the Board is to consider all specialty chicken commitment forms and determine whether they meet the criteria for the purposes of being leased specialty production quota,
 - (b) on determining that a specialty chicken commitment form is acceptable, the Board will submit the specialty chicken commitment form to the Chicken Farmers of Canada, and
 - (c) upon confirmation from the Chicken Farmers of Canada that the specialty chicken commitment form has been approved, the Board is to advise the applicant of the following:
 - (i) that the application has been accepted;
 - (ii) the live kilogram volume of specialty production quota approved for the applicant to lease;

- (iii) the lease price for the specialty production quota approved for the applicant to lease.

(7) Once an applicant accepts the offer by the Board to lease specialty production quota and the applicant has remitted payment to the Board for the live kilograms of the specialty production quota,

- (a) the Board is to lease the live kilograms of the specialty production quota to the applicant, and
- (b) the specialty production quota becomes effective on the first day of the A-Period for which the quota is granted.

(8) The Board may refuse to grant a lease of specialty production quota to an applicant if, in the Board's opinion,

- (a) the applicant fails to meet the requirements of the *Canadian Chicken Licensing Regulations* SOR/2002-22,
- (b) the applicant lacks the experience, equipment or financial responsibility to properly engage in specialty chicken production,
- (c) the applicant fails to meet the criteria and requirements for specialty production certification in Alberta,
- (d) the applicant fails to comply with any one or more of the technical requirements of the On-Farm Food Safety Assurance Program and the Animal Care Program,
- (e) the applicant has outstanding service charges or levies payable to the Board, or
- (f) the applicant fails to meet the criteria for applicant eligibility established by the Board as per subsection (3)(a).

(9) Where an authorized specialty chicken producer leases specialty production quota, the following applies:

- (a) the production of chicken under the lease of specialty production quota must take place at the certified production facilities and premises identified in the application submitted to the Board by that producer;
- (b) if the production facilities and premises at which the production of the specialty chicken takes place are sold, transferred, assigned, sub-leased or otherwise divided or

disposed of, the lease of that specialty production quota is cancelled unless otherwise directed by the Board;

- (c) the lease of specialty production quota expires on the last day of the A-Period in which the quota was leased;
- (d) all of the specialty chicken that is produced, or that is authorized to be produced, under the lease of specialty production quota is to be produced and marketed within the production cycles established by the Board;
- (e) that producer must submit reports required by the Board Office as per the *Canadian Chicken Licensing Regulations* SOR/2002-22 and this Regulation;
- (f) in the case of any underproduction that is existing at the time of the termination of that lease of specialty production quota,
 - (i) where that producer is not an owner of quota,
 - (A) that underproduction is not eligible to be carried over and produced under any new lease of specialty production quota that is granted to that producer, and
 - (B) the Board office will refund to the producer the cost of the lease for that A-Period for up to 5% of the producer's specialty production quota in effect at the time of the marketing deficit;
 - (ii) where that producer is an owner of quota and that quota is not being used for specialty production, that underproduction of specialty chicken is not eligible to be carried over and produced under any new lease of specialty production quota that is granted to that producer;
 - (iii) where that producer is an owner of quota and that quota is being used for specialty chicken production,
 - (A) that underproduction is not eligible to be carried over and produced under any new lease of specialty production quota that is granted to that producer nor applied to any future marketing cycles, and
 - (B) the Board will refund to the producer the cost of the lease for that A-Period for up to 5% of the

producer's specialty production quota in effect at the time of the marketing deficit;

- (g) that producer is not to produce specialty production quota in excess of the amount permitted to be marketed under that lease of specialty production quota;
- (h) notwithstanding clause (g), in the case of that producer marketing specialty chicken in excess of that which is permitted under that lease of specialty production quota,
- (i) where that producer is not an owner of quota, that overproduction is not eligible to be carried over and applied to any new lease of specialty production quota that is granted to that producer, and that person must pay to the Board a levy that is equal to
 - (A) the current specialty lease price for the period per kilogram for each kilogram of specialty chicken marketed in excess of 100% but less than the lower range of the overproduction sleeve established by the Board through a Board order, directive or policy pursuant to section 23.01,
 - (B) \$0.44 a kilogram for each kilogram of specialty chicken marketed in excess of the lower range of the overproduction sleeve but less than the upper range of the overproduction sleeve established by the Board through a Board order, directive or policy pursuant to section 23.01, and
 - (C) \$0.88 for each kilogram of specialty chicken marketed in excess of the upper range of the overproduction sleeve established by the Board through a Board order, directive or policy pursuant to section 23.01;
- (ii) where that producer is an owner of quota, and that quota is not being used for specialty production, that producer must pay to the Board a levy that is equal to
 - (A) \$0.44 a kilogram for each kilogram of specialty chicken marketed in excess of the lower range of the overproduction sleeve but less than the upper range of the overproduction sleeve established by the Board through a Board order, directive or policy pursuant to section 23.01, and

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- (B) \$0.88 for each kilogram of specialty chicken marketed in excess of the upper range of the overproduction sleeve established by the Board through a Board order, directive or policy pursuant to section 23.01;
- (iii) where that producer is an owner of quota and that quota is used by that person, in whole or in part, for specialty production,
- (A) that overproduction is not eligible to be carried over and applied to any new lease of specialty production quota that is granted to that producer, and
 - (B) that producer must pay to the Board a levy that is equal to
 - (I) the current specialty lease price for the period per kilogram for each kilogram of specialty chicken marketed in excess of 100% but less than the lower range of the overproduction sleeve established by the Board through a Board order, directive or policy pursuant to section 23.01,
 - (II) \$0.44 a kilogram for each kilogram of specialty chicken marketed in excess of the lower range of the overproduction sleeve but less than the upper range of the overproduction sleeve established by the Board through a Board order, directive or policy pursuant to section 23.01, and
 - (III) \$0.88 for each kilogram of specialty chicken marketed in excess of the upper range of the overproduction sleeve established by the Board through a Board order, directive or policy pursuant to section 23.01;
- (i) where that producer markets specialty chicken to a provincially inspected processing facility, neither that producer nor the provincially inspected processing facility is permitted to engage in interprovincial sales or export of that specialty chicken;
- (j) the following provisions apply to that producer:

section 3;
section 4;
section 5;
section 6;
section 7;
section 8;
section 9;
section 10;
section 12;
section 17;
section 23.01;
section 26;
section 29;
section 30;
section 35;
section 36;
section 37;
section 38.

(10) The Specialty Production Lease Program is subject to the following conditions:

- (a) after the program has been in operation for 3 years, the Board is to present a report to producers for the purposes of reviewing the program's effectiveness;
- (b) an authorized producer may only be granted leases of specialty production quota for a maximum of one A-Period at a time;
- (c) if the program is terminated by the Board, the maximum amount of time for which an authorized producer may be granted leases of specialty production quota is restricted to the A-Period in which the program is terminated;
- (d) approval to produce and market specialty chicken and receipt of a lease of specialty production quota is specific to the producer who receives the lease for the particular A-Period and a lease of specialty production quota cannot be leased-out, transferred, sold or otherwise utilized.

AR 166/2015 s2

Part 3
**Transitional Provisions,
Repeals and Expiry**

Quota continued

42 If immediately before the coming into force of this Regulation a person held a number of quota units of base quota, advanced quota or rock cornish chicken factor quota as defined in the *Alberta Chicken Producers Marketing Regulation* (AR 227/96), that person is deemed to hold the same number of quota units of authorized quota under this Regulation.

Licence continued

43 If, immediately prior to the coming into force of this Regulation, a person held a licence issued under the *Alberta Chicken Producers Marketing Regulation* (Alta. Reg. 227/96), that person continues to hold that licence under this Regulation and that person and the licence are subject to this Regulation.

Repeal

44 The *Alberta Chicken Producers Marketing Regulation* (Alta. Reg. 227/96) is repealed.

Expiry

45 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 May 31, 2018.

AR 3/2000 s45;226/2004;84/2012;86/2017

Schedule Repealed AR 223/2012 s15.