REPEALED

Repealed by M.R. 49/2008.
Date of repeal: 3 Mar. 2008

This version was current for the period set out in the footer below.

ABROGÉ

Abrogé par R.M. 49/2008.
Date d'abrogation : 3 mars 2008

La présente version était à jour pendant la période indiquée en bas de page.

Hatching Egg Producer Registration and Broiler Hatchery Licensing Regulation*

Regulation 170/99
Registered December 15, 1999

INTERPRETATION

Definitions

1(1) In this regulation,

"plan" means the *Manitoba Broiler Hatching Egg Marketing Plan Regulation*, Manitoba Regulation 240/87 R;

"provincial allocation" means the allocation of broiler hatching eggs by The Manitoba Broiler Hatching Egg Commission to the registered hatching egg producers in Manitoba, keyed to the estimated market requirement for chicken production in Manitoba.

1(2) Unless otherwise defined in subsection (1), terms in this regulation have the same meaning as in the plan.

REGISTRATION OF PRODUCERS

Prohibition

2 No person shall keep broiler breeder laying hens or produce broiler hatching eggs in Manitoba unless the person is registered with the commission as a producer.

Application for registration

3 An application to the commission for an allotment of quota is deemed to be an application for registration as a producer.

* This regulation is made under the *Manitoba Broiler Hatching Egg Marketing Plan Regulation*, Manitoba Regulation 240/87 R, and is Regulation No. 1, 1999 of the Manitoba Broiler Hatching Egg Commission.

Criteria for registration

4 The commission shall approve an application under section 3 if the applicant

(a) has been allotted, or is entitled to be allotted, a quota under the plan; and

(b) has entered into agreements in Form 1 of Schedule A with one or more licensed hatchery operators under which the producer is able to sell the eggs that the producer is authorized to produce under the quota.

Conditions of registration

5 The registration of a producer is subject to the following conditions:

(a) that the producer complies with the Act, and the regulations and orders made under the Act;

(b) that the producer's representations made in the application for registration are true;

(c) that the producer complies with the producer's obligations in Form 1 of Schedule A.

Term of registration

6 The registration of a producer is effective on the approval of the application by the commission and continues in effect, unless it is earlier suspended or cancelled, for so long as the producer is allotted a quota.

LICENSING OF HATCHERY OPERATORS

Prohibition

7 No person shall operate a broiler hatchery in Manitoba unless the person is licensed by the commission as a hatchery operator.

Application for licence

8 A person shall apply to the commission for a licence to operate a broiler hatchery in Manitoba by an application in writing in Form 2 of Schedule A, signed by the applicant and sent or delivered to the commission office not later than 60 days before the term of the licence is to begin.

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Criteria for licence

9 The commission shall approve an application that conforms with section 8 if

(a) the applicant is the operator of a hatchery that complies with the requirements for buildings, equipment, operation and health set out in sections 79.19 and 79.2 of the *Health of Animals Regulations*, C.R.C., c. 296;

(b) the hatchery has entered into agreements for the purchase of broiler hatching eggs from registered Manitoba hatching egg producers, having regard to the hatchery's projected sales of chicks and regard to fulfilling Manitoba's provincial allocation;

(c) all of the applicant's agreements for the purchase of broiler hatching eggs from registered producers are in Form 1 of Schedule A.

Conditions of licence

10(1) Every broiler hatchery licence is subject to the following conditions:

(a) that the hatchery operator complies with the Act, the regulations and orders made under the Act, and the licence terms and conditions contained in Schedule B;

(b) that the hatchery operator's representations made in, or in connection with, any application for a licence are true;

(c) that the hatchery operator performs the operator's obligations under the hatchery agreements in Form 1 of Schedule A;

(d) that the hatchery operator immediately files with the commission all agreements and amendments to agreements the hatchery operator has entered into and enters into with registered producers for the purchase of broiler hatching eggs;

(e) that the hatchery operator files a completed in a Form 3 of Schedule A with the commission office by the first day of May in each year.

10(2) A licence may be issued subject to such further reasonable terms and conditions as the commission determines are required

(a) to maintain an equitable price to producers of broiler hatching eggs; and

(b) to maintain for hatcheries an adequate and equitable supply of broiler hatching eggs keyed to filling Manitoba's provincial allocation.

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Term of licence
11(1) A broiler hatchery licence takes effect on the date stated on the certificate and continues in effect until surrendered by the hatchery operator unless earlier suspended or cancelled by the commission.

11(2) Where the commission determines it necessary in the best interest of the hatching egg industry, it shall make an Order requiring of security or proof of financial responsibility by a person engaged in the marketing of a regulated product and providing for the administration and disposition of any money or securities so furnished.

SUSPENSION OF REGISTRATION OR LICENCE

Suspension if prompt corrective action not taken
12 If there are grounds for the suspension of the registration of a producer or the licence of a hatchery under subsection 12(3) of the plan and the producer or hatchery, on being advised of the matter constituting grounds for suspension, fails or is unable to promptly take the corrective measures required, the commission may give a notice of suspension in accordance with subsection 12(4) of the plan.

Contents of notice of suspension
13 A notice of suspension given under subsection 12(4) of the plan shall contain a statement setting out the effective date and duration of the suspension, the grounds for the suspension, the corrective measures required to be taken and the date by which they are to be completed.

Duration of suspension
14 A suspension of registration or licence remains in effect

(a) where a notice of cancellation is not given during the suspension, until a period of 90 days has elapsed or until the corrective measures required are taken and are verified by the commission or by an inspector; and

(b) where a notice of cancellation is given during the suspension, until the cancellation process has been completed under section 16.

Notice of cancellation of registration or licence
15 A notice of cancellation of the registration of a producer or the licence of a hatchery under subsection 12(4) of the plan shall

(a) state the matters constituting grounds for cancellation;

(b) advise that the producer or hatchery has seven days from receipt of the notice to request a hearing with the commission with respect to the cancellation;

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(c) state that if the producer or hatchery requests a hearing, any cancellation shall not take effect until after the hearing; and

(d) state the date on which the cancellation will take effect if no hearing is requested.

Cancellation of registration or licence

16(1) If a producer or hatchery has been given a notice of cancellation in accordance with the plan and section 15 and has not requested a hearing, the registration or licence shall be cancelled effective on the date stated in the notice.

16(2) If a producer or hatchery has been given a notice of cancellation in accordance with the plan and section 13 and has requested a hearing, the commission shall hold a hearing on not less than 14 days notice to the producer or hatchery.

16(3) After a hearing under subsection (2), the commission may

(a) cancel the registration or licence;

(b) adjourn the hearing, with or without an interim suspension of the registration or licence, for any period up to 90 days;

(c) determine that the registration or licence shall not be cancelled; or

(d) make such other order as it may consider to be appropriate.

MISCELLANEOUS PROVISIONS

Transitional

17(1) A producer registration issued under the *Broiler Hatching Egg/Hatchery Registration and Licensing Order*, Manitoba Regulation 51/96, or under the *Registration Order*, Manitoba Regulation 101/85, shall be deemed to have been issued under this regulation and continues in effect until it expires or is suspended or cancelled, and the producer shall comply with all existing obligations pursuant to any existing agreements with hatcheries.

17(2) A hatchery licence issued under the *Broiler Hatching Egg/Hatchery Registration and Licensing Order*, Manitoba Regulation 51/96, or under the *Registration Order*, Manitoba Regulation 101/85, shall be deemed to have been issued under this regulation and continues in effect until it expires or is suspended or cancelled but in any case does not continue in effect after May 31, 2000, and the hatchery shall comply with all existing commitments to registered producers and the commission pursuant to any existing agreements with producers and undertakings given to producers or the commission.

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17(3) An existing operating non-licensed hatchery shall be permitted to continue operating until the earlier of a licence being issued under this regulation, or May 31, 2000, and the hatchery shall comply with all existing commitments to registered producers and the commission pursuant to any existing agreements with producers and undertakings given to producers or the commission.

Repeal
18 The *Broiler Hatching Egg/Hatchery Registration and Licensing Order*, Manitoba Regulation 51/96, is repealed.

Coming into force
19 This regulation comes into force on December 31, 1999.

December 13, 1999

THE MANITOBA BROILER HATCHING EGG COMMISSION:

David Loewen
Chairman

Sheilagh Antoniuk
General Manager

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SCHEDULE A

Form 1

Manitoba Broiler Hatching Egg Production and Marketing Agreement

Instructions – Complete this agreement and return the completed document, signed by the applicants, to the commission office to be validated by the commission.

This agreement between

_____
(the "Producer")

- and -

_____
(the "Hatchery")

- and -

THE MANITOBA BROILER HATCHING EGG COMMISSION
(the "commission")

effective from and after _____ (the "Start Date"),

IS EVIDENCE OF THE FOLLOWING FACTS:

A. The commission is responsible for the control, regulation and promotion in any and all respects of the marketing of broiler hatching eggs and broiler chicks within Manitoba as specified in the plan.

B. The Producer has been allotted the following quota relating to the production of broiler hatching eggs:

Producer No.: _____

No. of hens housed: _____ Rate of lay: _____ No. of eggs: _____

Barns (Outside Dimensions): _____

Facilities (Production Area Dimensions and square feet): _____

_____

C. The Hatchery is licensed with the commission as follows:

Licence No.: _____ Hatching capacity: _____

Location: _____

_____

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AND WITNESSES THAT the Producer and Hatchery agree with each other as follows:

1. DEFINITIONS

1 In this agreement,

(a) **"batch"** means a shipment of broiler hatching eggs from the Producer to the Hatchery;

(b) **"commission"** means The Manitoba Broiler Hatching Egg Commission;

(c) **"facilities"** means the barn or barns and related facilities that the Producer is authorized to use in connection with the Quota and identified in preamble B;

(d) **"flock"** means a flock of broiler breeder laying hens kept by the Producer in the facilities for the production of broiler hatching eggs under the quota;

(e) **"hens housed"** means the number of hens housed in a production facility when a flock is at 5% production;

(f) **"qualified veterinarian"** means a veterinarian holding a valid veterinary medicine degree recognized by The Manitoba Veterinary Medical Association and licensed to practice veterinary medicine in Manitoba by that Association as provided for in *The Veterinary Medical Act*;

(g) **"quota"** means the quota held by the Producer and identified in preamble A.

2. PRODUCER OBLIGATIONS, RIGHTS AND PRIVILEGES

2(1) Purchase of flock – The purchaser agrees to purchase sufficient day old breeders to ensure an adequate number of hens housed to meet the purchaser's registered quota.

2(2) Sale of all eggs – The Producer agrees to sell to the Hatchery all broiler hatching eggs produced by a flock that meet the standards in subsection 2(4).

2(3) Approval and certification of flock – The Producer agrees to seek approval and certification of each flock in accordance with the *Hatcheries and Hatchery Supply Flocks Regulation*, Manitoba Regulation 209/87 R and not to ship any broiler hatching eggs to the Hatchery from a flock until it is so approved and certified.

2(4) Egg standards – Subject to subsection 2(5), the Producer agrees to sell to the Hatchery as broiler hatching eggs only eggs that

(a) weigh not less than 52 g;

(b) are gathered from a nest box or automatic egg belt; and

(c) are not soft-shelled, cracked, ringed, dark-topped, wrinkled, rough-shelled, oversized, round, misshapen, stained, dirty or double-yolked.

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2(5) Non-standard eggs – With the agreement of the Hatchery, the Producer may sell to the Hatchery, as broiler hatching eggs,

(a) eggs that are gathered otherwise than from a nest box or automatic egg belt if they are cleaned and identified clearly as "floor eggs"; or

(b) eggs that weigh less than 52 g.

2(6) Egg storage facility – The Producer agrees to provide for the broiler hatching eggs produced by a flock, an egg storage facility that

(a) has the capacity to store one week's production from the flock;

(b) maintains a temperature not less than 16 °C and not more than 21°C; and

(c) maintains a relative humidity of not less than 75% and not more than 80%.

2(7) Vaccination – The Producer agrees to follow, at the Producer's cost, the vaccination program for a flock reasonably required by the Hatchery.

2(8) Flock management – The Producer agrees to manage each flock in accordance with The Manitoba Broiler Hatching Egg Production Guidelines.

2(9) Records – The Producer agrees to maintain accurate and complete records for each flock and to provide to the commission the reports required by law.

2(10) On-farm visitation by Hatchery – The Producer will permit an authorized representative of the Hatchery to visit a flock and the facilities at all reasonable times and on reasonable notice and will accompany and assist the representative during the visit.

2(11) Significant events – The Producer agrees to advise the Hatchery immediately of

(a) any sign of—or outbreak of—disease in a flock;

(b) any significant drop in egg production by a flock; and

(c) any other matter that is likely to materially affect the number or quality of eggs that the Hatchery is likely to receive from a flock.

3. HATCHERY OBLIGATIONS, RIGHTS AND PRIVILEGES

3(1) Placement of flock – The Hatchery agrees to order and to sell to the Producer sufficient day old breeders to ensure for the Producer an adequate number of hens housed to meet the purchaser's registered quota.

3(2) The Hatchery agrees that the Producer may determine the producer's hen placement number, but that size may not exceed the Producer's registered quota by more than 10%, excluding any non-purchased extras.

3(3) Purchase of eggs – Subject to subsections 3(6) and 3(7), the Hatchery agrees to purchase from the Producer at the price set by the commission all broiler hatching eggs produced by a flock that meet the standards set out in subsection 2(4).

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3(4) Calculation of price – The Hatchery agrees to pay the Producer for each batch of broiler hatching eggs from a flock a price calculated in accordance with the following formula:

Eggs x Price x Hatchability

Where

"Eggs" represents the number of eggs received by the Hatchery, less any eggs that do not meet the standards of subsection 2(4), plus any eggs accepted by the Hatchery under subsection 2(5), and in any case not less than the number of eggs set by the Hatchery;

"Price" represents the price per egg from time to time established by the commission; and

"Hatchability" means a fraction, expressed as a percentage, equal to the following:

(a) if the eggs are not set within seven days after the Hatchery receives them or if the hatching process of the Hatchery is deficient due to equipment malfunction or for any other reason, the hatchability of the latest preceding batch from the Producer that was set within seven days of receipt and for which the hatching process was not deficient; and

(b) in any other case, the number of saleable chicks from the batch divided by the number of eggs set.

3(5) Payment of price – The Hatchery agrees to pay the Producer the price for the eggs, less any amounts that the Hatchery is required by law to withhold,

(a) if the eggs are set and hatch, not later than seven days after the batch hatches; and

(b) if for any reason the eggs are not set or do not hatch, not later than 28 days after the eggs are received by the Hatchery.

3(6) Suspension of purchases (disease) – The Hatchery may suspend its purchases of broiler hatching eggs produced by a flock while the flock is infected by a named or federally reportable disease as specified in the *Health of Animals Act* (Canada), and that a qualified veterinarian certifies materially affects the quality of the broiler hatching eggs or of chicks hatched from them in accordance with commission policy in regard to industry standards.

3(7) Commencement and termination of purchases – The Hatchery agrees to commence its purchases of eggs from a flock as soon as the eggs meet the standards set out in subsection 2(4) and may terminate its purchases of broiler hatching eggs produced by a flock after

(a) the hatchability of three consecutive settings of eggs that are set within seven days after their receipt by the Hatchery is less than 70%; or

(b) the flock is more than 60 weeks old.

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3(8) Maximum time between flocks – The Hatchery will ensure, so far as it lies with the Hatchery or unless the Producer otherwise agrees, that the period between the termination of purchases from one flock and the commencement of purchases from the next ensuing flock is not more than 65 days.

3(9) Identifiability – The Hatchery agrees that it will keep the broiler hatching eggs from a flock separate and identifiable from the time they are received by the Hatchery until they are fully processed.

3(10) Shipping materials – The Hatchery agrees to supply, without charge, clean, sanitary and sound packing and shipping materials for the Producer's use in transporting broiler hatching eggs produced by a flock from the facilities to the Hatchery. These materials remain the property of the Hatchery.

3(11) Inspection: cost and disease precautions – If the Hatchery inspects a flock or the facilities, the Hatchery agrees that the inspection will be at its cost and that it will ensure that its representatives who attend at the Producer's premises for an inspection take all reasonable precautions to prevent the transmission of any disease to the flock, including the use of protective clothing and footwear provided by the Hatchery.

4. COMMISSION OBLIGATIONS, RIGHTS AND PRIVILEGES

4 The commission will fulfill its mandate subject to the plan and to the Act to promote, control, and regulate the marketing of regulated product that is produced within the province and to prohibit such marketings in whole and in part.

5. MISCELLANEOUS PROVISIONS

5(1) Term of Agreement – This agreement takes effect from the Start Date, and continues in effect until it is terminated by mutual agreement of the parties or until it is terminated in accordance with subsection 5(2).

5(2) If either the Hatchery or the Producer wishes to terminate this agreement and the other party does not consent, the non-consenting party must notify the commission of the wish to terminate, and the commission shall refer the issue for arbitration as set out in subsection 5(3).

5(3) Disputes – The Hatchery and the Producer agree that any dispute between the parties relating to the subject matter of this agreement shall be referred to the commission. The commission shall appoint an arbitrator to resolve the dispute. Either party may initiate the reference to arbitration by notice in writing to the other party and the commission, and each shall cooperate fully with the commission and with the arbitrator appointed by the commission so that, as far as is practicable, the arbitration may be completed within 30 days of the reference.

5(4) Entire agreement – This agreement is the entire agreement between the parties with respect to the specific subject-matter of this agreement, and supersedes and replaces all previous understandings, agreements, assurances and undertakings between the parties with respect to that subject matter.

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5(5) Amendment of agreement – The parties acknowledge that this agreement may be submitted to the commission in support of the application of the Hatchery for licensing and they agree that it may not be amended except in writing and with the approval of the commission.

5(6) Assignment of agreement – This agreement may not be assigned by the Producer except to another producer registered with the commission to whom the Quota is re-allotted. The Hatchery may assign this agreement to another hatchery licensed by the commission if the commission so directs or if the Producer consents and notice is given to the commission.

5(7) Notices – All notices under this agreement shall be in writing and be delivered or mailed by prepaid registered mail.

IN WITNESS WHEREOF the Producer and Hatchery and Commission have duly executed this agreement on the dates stated below.

Witness	Date	Signature of Producer
Witness	Date	Signature of Hatchery
Witness	Date	Signature of Commission

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Form 2

THE MANITOBA BROILER HATCHING EGG COMMISSION

APPLICATION FOR BROILER HATCHERY LICENCE

Instructions – Complete this application and send or deliver the completed application, together with the copies of all agreements with registered producers for the purchase of broiler hatching eggs to the commission office.

APPLICATION

1. Application for a broiler hatchery licence for _____ (herein called the "applicant"). (Hatchery Name)

2. The applicant hereby applies to The Manitoba Broiler Hatching Egg Commission for a broiler hatchery licence for the calendar year ending December 31, _____.

3. The applicant's hatchery(s) is/are located at _____

   _____.

4. The applicant projects that the total number of broiler chicks it will sell in Manitoba during the term of the licence is _____.

5. The applicant acknowledges that any licence issued pursuant to this application is subject to the following conditions:

   (a) that the hatchery operator complies with the Act, the regulations and orders made under the Act, and the licence terms and conditions set out in Schedule B to the *Hatching Egg Producer Registration and Broiler Hatchery Licensing Regulation*;

   (b) that the hatchery operator's representations made in, or in connection with, this application are true;

   (c) that the hatchery operator performs the operator's obligations under any of the Manitoba Broiler Hatching Egg Production and Marketing Agreements it has entered into; and

   (d) that the hatchery operator complies with any other terms and conditions imposed by the commission under the *Hatching Egg Producer Registration and Broiler Hatchery Licensing Regulation*.

SIGNED at _____, Manitoba, this ____ day of _____, _____.

Hatchery Name: _____
(Applicant)

_____
(Signature)

Name of person signing: _____
Office held: _____
Address: _____

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Form 3

THE MANITOBA BROILER HATCHING EGG COMMISSION

HATCHING EGG SUPPLY FLOCK LIST

Registered Producer	# of Hens Ordered	Breed of Hens	# of Males Ordered	Breed of Males	Date of Flock Placement	Estimate Date of First Set	Estimate Date of Slaughter

HATCHERY NAME: _____

PRODUCTION YEAR: _____

_____

(Applicant's Signature)

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SCHEDULE B

Terms and Conditions of Broiler Hatchery Licence Relating to Allotment and Adjustment of Manitoba's Market Share among Licensed Hatcheries

These terms and conditions have been determined by the commission to be required to maintain for broiler hatcheries an adequate supply of broiler hatching eggs and to maintain equity among broiler hatcheries.

These terms and conditions are based on the following facts:

A. The commission has been created by the *Manitoba Broiler Hatching Egg Marketing Plan Regulation* with the authority to regulate the marketing in Manitoba of broiler hatching eggs and chicks;

B. In carrying out its mandate, the commission has regulated the production of broiler hatching eggs through a system of production quotas and registration of producers, has regulated the hatching of broiler hatching eggs through a system of licensing of broiler hatcheries, and has elected to permit free competition among broiler hatcheries in the sale of chicks;

C. In order to be licensed as a broiler hatchery, a hatchery must agree with broiler hatching egg producers in prescribed form (an "Agreement" or "Agreements") concerning the purchase of broiler hatching eggs from producers;

D. The commission wishes to assure for each licensed broiler hatchery a reasonable correspondence between the eggs it is obligated to purchase under Agreements and its market for chicks, and to ensure that Manitoba's provincial allocation of broiler hatching eggs is allocated equitably among the broiler hatcheries;

The terms and conditions are as follows:

1. **Allotment of provincial allocation** – Following the annual determination of Manitoba's provincial allocation by the commission, the licensed hatcheries will allocate Manitoba's provincial allocation for the year among themselves by mutual agreement, but if the licensed broiler hatcheries do not mutually agree on the distribution of Manitoba's provincial allocation among themselves within 30 days of being given written notice of the allotment, the commission will allocate Manitoba's provincial allocation among the licensed broiler hatcheries.

2. **Purchase of Eggs** – Each licensed broiler hatchery must purchase from registered producers within the year

   (a) the number of Manitoba broiler hatching eggs allocated to it under section 1; and

   (b) subject to section 3, any Manitoba broiler hatching eggs that the commission directs.

3. Terms of directed purchase – If the commission directs a broiler hatchery to purchase broiler hatching eggs either from another broiler hatchery or from a registered producer under contract to another broiler hatchery

(a) the price that the vendor may require the broiler hatchery to pay for the eggs shall not exceed

(i) if the vendor is another broiler hatchery, the cost to the other hatchery of the eggs, and

(ii) if the vendor is a registered producer, the price prescribed by the commission;

(b) the number of eggs that the commission may direct the broiler hatchery to purchase in any calendar year shall not exceed the hatchery's market share as determined by the commission based on its historical records.

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