

(Consolidated up to 68/2010)

ALBERTA REGULATION 280/97
Marketing of Agricultural Products Act
HATCHING EGGS REGULATION

Table of Contents

1	Interpretation
	Part 1
	Licences
2	Licence required
3	Licensing of producers, hatcheries and pullet growers
4	Applications for licences
5	Issue, renewal or refusal of licence
6	Suspension or cancellation of licence
7	Authority of producer licence
8	Authority of hatchery licence
10	Licence fees
11	Disposal of licence prohibited
12	Multiple licences
13	Effect of licence
	Part 2
	Quotas
13.1	Definitions
14	Must hold quota or permit
15	Quota certificate
16	Quota allotment
16.1	Minimum price
17	Pullet growing
19	Increased allotment allocation
20	Quota bank
21	Quota limit
22	Transfer of quota
22.1	Transfer of shares of corporate quota holder
23	Transfer fee
24	Lease of quota
25	Research permit
26	Financial interest in production facilities

- 27 Enforcement of financial interest in production facilities
- 28 Reduction in or loss of quota
- 29 Reversion of quota

Part 3 Service Charges

- 30 Service charges
- 31 Weekly statements
- 32 Monthly statements
- 33 Records

Part 4 Production

- 34 Notice of production variation
- 34.1 Administrative order
- 35 Change in utilization factor
- 36 Cycle adjustment
- 37 Placement
- 38 Overproduction

Part 5 General

- 39 Notices
- 40 Information change
- 41 Prohibitions re sale of hatching eggs
- 42 Prohibition re hatchery
- 43 Prohibition re minimum price
- 44 Prohibition re licensed producer
- 45 Prohibition re marketing

Transitional Provision

- 46 Transitional

Repeal

- 47 Repeal

Expiry

- 48 Expiry

Interpretation

- 1(1) In this Regulation,

- (a) “breeder quota” means the maximum number of breeder hens that may be placed by a producer in a one-year period;
- (a.1) “contracted pullet grower” means a pullet grower who enters into a contract with a holder of a breeder quota to provide pullets pursuant to an approval granted by the Board under section 17(1)(b);
- (b) “facility” means the buildings and improvements in which hatching eggs are produced and the parcel of land on which the buildings and improvements are situated;
- (c) “family” includes a husband, wife, son, daughter, father, mother, brother, sister, son-in-law, daughter-in-law, father-in-law or mother-in-law;
- (d) “family farm” means a farm owned and operated by members of the same family, including an adult interdependent partner of a member;
- (e) “incorporated family farm” means a corporation engaged primarily in the business of farming in which all of the shareholders are members of the same family, including an adult interdependent partner of a member;
- (f) “licensee” means a person who has been issued one or more of the following:
 - (i) a producer licence;
 - (ii) a hatchery licence;
 - (iii) a pullet grower licence;
- (g) “marketing authorization” means breeder quota multiplied by the utilization factor under section 35;
- (h) “national agency” means an agency established in relation to hatching eggs under a Canada Act;
- (h.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;
- (h.2) “organization” means a person as defined in the Plan but does not include an individual;
- (i) “quota holder” means a person to whom breeder quota has been allocated;

- (j) “research permit” means a type of quota under which a person may market regulated product that is used primarily for research purposes in accordance with the conditions imposed under section 25;
 - (k) “research purposes” means a bona fide scientific experiment or study;
 - (l) “secured lender” means a person who has made a loan to a quota holder and has taken security over that quota holder’s facility by way of a mortgage, agreement for sale or debenture;
 - (m) “total provincial allocation” means the sum of all breeder quota allocated in Alberta as calculated from time to time;
 - (n) “transfer” means sell, give, assign or otherwise dispose of.
- (2) A reference to a hatchery includes a reference to the person who operates the hatchery.
- (3) Words used in this Regulation that are defined in the Plan have the same meaning as defined in the Plan.

AR 280/97 s1;337/2002;125/2003;12/2005;48/2008

Part 1 Licences

Licence required

2 A person shall not engage in the production, marketing or processing of hatching eggs unless that person is the holder of the appropriate licence issued by the Board.

Licensing of producers, hatcheries and pullet growers

3(1) A person may apply to the Board for one or more of the following licences:

- (a) a licence to operate as a producer;
- (b) repealed AR 337/2002 s3;
- (c) a licence to operate as a hatchery.

(2) A licence expires on December 31 of the year for which it is issued.

(3) The licensee must comply with any directions given from time to time by the Board relating to the activity authorized by the licence.

AR 280/97 s3;337/2002

Applications for licences

4(1) In an application for a producer licence the applicant must

- (a) set out the applicant's name, telephone number and mailing address;
- (b) describe the experience, familiarity and understanding of the applicant with respect to the production of hatching eggs;
- (c) describe the facilities of the applicant, including a description of the buildings and improvements in which hatching eggs are to be produced and the legal land description of the parcel of land on which the buildings and improvements are situated;
- (d) describe the equipment to be used by the applicant with respect to the production of hatching eggs;
- (e) repealed AR 337/2002 s4;
- (f) describe each operation and each location if a licence is being sought for more than one facility;
- (f.1) provide evidence that the applicant has complied with the technical requirements under the On-Farm Food Safety Assurance Program;
- (g) provide evidence that the applicant
 - (i) is a Canadian citizen,
 - (ii) is admitted to Canada as a permanent resident, or
 - (iii) in the case of a corporation, has a majority of its shares owned by Canadian citizens or persons admitted to Canada as permanent residents;
- (h) include any other information as the Board may require in respect of the application.

(2) In an application for a hatchery licence the applicant must

- (a) set out the name, telephone number and mailing address of the hatchery;

- (b) provide the address of the hatchery, if it is not the mailing address, including the legal land description of the parcel of land on which the hatchery is situated;
- (c) provide the name of the applicant;
- (d) describe the experience, familiarity and understanding of the applicant with respect to the operation of a hatchery;
- (e) describe the buildings and improvements to be used by the hatchery;
- (f) describe the equipment to be used by the hatchery;
- (g) provide sufficient evidence of the financial responsibility of the applicant;
- (h) provide any other information as the Board may require in respect of the application.

(3) Repealed AR 337/2002 s4.

AR 280/97 s4;337/2002;12/2005

Issue, renewal or refusal of licence

5(1) The Board must consider each application and, unless the applicant is refused a licence under subsection (3) or (4), the Board shall issue a licence to the applicant.

(2) Subject to subsections (3), (4) and (5), the Board shall annually before January 1 renew a licence that is issued under subsection (1).

(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 or continue to engage in the activity to which the application or licence relates,
- (b) contravenes or has contravened the Act, the Plan, an order or direction of the Council or the Board, or a condition imposed on the licence, or
- (c) fails to comply with any of the technical requirements under the On-Farm Food Safety Assurance Program.

(3.1) When the applicant for a licence has not previously been licensed as a producer and

- (a) is commencing operations at a newly constructed facility,
or
- (b) is a person who is purchasing an existing facility from a licensed producer in an arm's length transaction,

the Board may grant a licence to the applicant for a period not exceeding 6 months to enable the applicant to become certified under the On-Farm Food Safety Assurance Program.

(3.2) A licence granted under subsection (3.1) expires on the earlier of

- (a) the end of the period specified by the Board in the licence,
and
- (b) the date on which the person becomes certified under the On-Farm Food Safety Assurance Program and the Board issues a producer licence to the person.

(3.3) Notwithstanding subsection (3)(c), if a licensed producer fails to comply with any of the technical requirements under the On-Farm Food Safety Assurance Program, the Board may renew that producer's licence on the condition that until the producer complies with those requirements

- (a) no new breeder chicks or breeder pullets may be placed at the producer's facility, and
- (b) any unused portion of the producer's quota must be leased to an approved lessee of quota.

(4) In the case of a producer's licence, the Board shall refuse to issue or renew a licence if

- (a) the applicant is not a breeder quota holder, an approved lessee or a research permit holder;
- (b) in the case of an individual, the applicant is not a Canadian citizen, or a person admitted to Canada as a permanent resident;
- (c) in the case of a corporation, the majority of the applicant's shares are not owned by Canadian citizens or persons admitted to Canada as permanent residents.

(5) Where a licence is granted to an approved lessee, the Board shall not renew the licence for any period beyond the term of the approved lease.

Suspension or cancellation of licence

6(1) The Board may suspend a licence for any period it considers appropriate or cancel a licence if the licensee

- (a) lacks, in the Board's opinion,
 - (i) the experience, familiarity or understanding in respect of the activity authorized under the licence, or
 - (ii) the equipment or financial responsibility to properly engage in or continue to engage in the activity authorized under the licence,
- (b) contravenes or has contravened the Act, the Plan, an order or direction of the Council or the Board, or a condition imposed on the licence, or
- (c) fails to comply with any of the technical requirements under the On-Farm Food Safety Assurance Program.

(2) Where a licence is suspended or cancelled under subsection (1), the Board must notify the licensee of that suspension or cancellation.

(3) Where a licence is suspended or cancelled, the person whose licence was suspended or cancelled shall, on receiving a notice of the suspension or cancellation, immediately cease engaging in the activity authorized by the licence.

(3.1) Notwithstanding subsection (1)(c), if the Board is of the opinion that a licensed producer has failed to comply with any of the requirements under the On-Farm Food Safety Assurance Program, the Board may choose not to suspend the producer's licence and may impose any of the following conditions:

- (a) the producer must continue production only with the producer's existing breeder hens;
- (b) no new breeder chicks or breeder pullets will be placed at the facility until the producer complies with the requirements of the On-Farm Food Safety Assurance Program;
- (c) any unused quota is to be leased to an approved lessee of quota.

(4) A person whose licence is suspended or cancelled may apply to the Board for an order staying the suspension or cancellation pending the determination of a review or an appeal, as the case may be, under Part 5 of the Act.

(5) In the case of a producer licence, the Board shall cancel the licence if the producer ceases to be a quota holder, an approved lessee or research permit holder.

AR 280/97 s6;12/2005

Authority of producer licence

7 A producer licence is authority for the licensee, in accordance with this Regulation and with the quota allocated to the holder by the Board, to engage in the production and marketing of hatching eggs in and from the facility described on the licence.

Authority of hatchery licence

8(1) A hatchery licence is authority for the licensee to receive, set and hatch hatching eggs in the hatchery for which the licence is granted.

(2) Unless the Board determines otherwise by resolution, no hatchery licensee may buy hatching eggs unless those eggs were

- (a) produced by a licensed producer, or
- (b) imported in accordance with the allocation granted to Alberta under a Canada Act.

(3) A hatchery licence is subject to the following terms:

- (a) that the licensee sets only those hatching eggs marketed to the licensee
 - (i) in accordance with this Regulation, or
 - (ii) in accordance with the terms of a Canada Act or any agreement under that Act;
- (b) that the licensee apportion any increase in eggs set between those eggs marketed to the licensee by Alberta producers and those eggs marketed to the licensee under a Canada Act or agreement thereunder so that the overall proportion is changed by no more than 1.5%;
- (c) that, in the event that a licensee increases the number of hatching eggs that the licensee sets by more than 1.5% in a calendar year, the licensee shall purchase the increased number of hatching eggs from producers producing eggs under the terms of quota granted under this Regulation if those hatching eggs are available to be marketed to the hatchery.

9 Repealed AR 337/2002 s5.

Licence fees

10 A fee is not payable for an application for, or renewal of, a producer licence or a hatchery licence.

AR 280/97 s10;337/2002

Disposal of licence prohibited

11(1) A licence is not transferable.

(2) If a licence is purported to be transferred, that licence is cancelled at the time of the purported transfer.

AR 280/97 s11;48/2008

Multiple licences

12(1) Where a person carries out more than one activity for which different licences are required under this Regulation, that person must hold the different licences required for each of those activities.

(2) Repealed AR 337/2002 s7.

AR 280/97 s12;337/2002

Effect of licence

13 A licence issued by the Board

- (a) is a licence to engage in the activity stated in the licence;
- (b) is not an approval or endorsement by the Board of the licence holder;
- (c) shall not be represented by the licence holder or any other person as an approval or endorsement by the Board.

Part 2 Quotas

Definitions

13.1 In this Part,

- (a) “breed factor” means the potential production of hatching eggs by a particular species of breeder hen as compared to the potential production of hatching eggs by the species of breeder hen designated by the Board as the designated breed;

- (b) “designated breed” means the species of breeder hen designated by the Board as the benchmark for production of hatching eggs.

AR 154/2005 s2

Must hold quota or permit

14(1) A person shall not produce or market hatching eggs unless the person has been granted

- (a) breeder quota, or
- (b) a research permit.

(2) Subject to this Regulation, breeder quota is authority for the quota holder

- (a) to raise and maintain in the facility in respect of which the quota is allocated the number of breeder hens specified in the quota for the period of time for which the quota is allocated, and
- (b) to market the hatching eggs or broiler chicks produced by those breeder hens.

(2.1) The Board may make administrative orders establishing a breed factor for each type of breeder hen being used by licensed producers.

(2.2) If the Board establishes a breed factor under subsection (2.1), the number of breeder chicks that can be placed by a breeder quota holder will be adjusted in accordance with the established breed factor.

(3) A breeder quota holder must not place more breeder chicks than the total number consisting of

- (a) the number of breeder hens maintained under the breeder quota or as adjusted under subsection (2.2), and
- (b) the number of breeder chicks that are provided free of charge by the supplier of the breeder chicks as an allowance for mortality.

AR 280/97 s14;154/2005

Quota certificate

15 When a breeder quota is allocated, the Board must issue a quota certificate to the quota holder that specifies the following:

- (a) the name of the quota holder;

- (b) the facility in which the breeder quota may be produced;
- (c) the amount of the breeder quota;
- (d) the replacement cycle for the breeder quota.

Quota allotment

16(1) Subject to section 24 and subsections (2) and (3), the Board shall allocate breeder quota only if the quota holder operates in a facility in which the breeder hens are to be maintained that is

- (a) owned by the quota holder, or
- (b) owned and operated in by another quota holder.

(2) In the case of a family farm to which quota has been allocated, any member of the family, including an adult interdependent partner of a member, who has an interest in the family farm may own the facility.

(3) In the case of an incorporated family farm to which quota has been allocated, any shareholder may own the facility.

(4) Except in the case of a lease of quota under section 24, the Board shall not allocate more than 2 breeder quotas per facility.

(5) Unless otherwise authorized under this Regulation,

- (a) the breeder hens maintained under a breeder quota must only be maintained at the facility for which quota is allocated or at the facility for which a lease of breeder quota has been approved under section 24, and
- (b) any hatching eggs produced from those hens must only be produced at and marketed from that facility.

AR 280/97 s16;337/2002;125/2003;48/2008

Minimum price

16.1 The Board may by resolution

- (a) determine the minimum price to be paid to a producer for hatching eggs,
- (b) determine different prices for different classes, varieties, grades, sizes or kinds of hatching eggs, and
- (c) determine different prices for different parts of Alberta.

AR 68/2010 s2

Pullet growing

17(1) With the approval of the Board obtained in advance, the holder of a breeder quota may, for the purpose of obtaining breeder hens for that quota,

- (a) raise breeder chicks and breeder pullets, or
- (b) allow a contracted pullet grower to raise breeder chicks and pullets,

at a facility other than the one to which breeder quota is allocated.

(2) Where the Board grants approval under subsection (1),

- (a) eggs produced at that other facility shall not be marketed to a hatchery, and
- (b) all breeder pullets produced from those eggs shall be removed from that other facility to the facility specified in the quota certificate before those pullets are 154 days old.

(3) Where a holder of a breeder quota enters into a contract with a contracted pullet grower pursuant to subsection (1)(b), the holder of the breeder quota must provide to the Board any information as may be required by the Board in relation to the following:

- (a) the number of pullets raised;
- (b) the quota under which the pullets are raised;
- (c) the age at which the pullets are removed to the quota holder's facility.

(4) If, in the opinion of the Board, extenuating circumstances exist, the Board may extend the time limit set out in subsection (2)(b).

AR 280/97 s17:337/2002

18 Repealed AR 91/2001 s2.

Increased allotment allocation

19(1) When the Board considers that general marketing conditions warrant, the Board may increase the total provincial allocation permanently, and the amount of that increase must be allocated in accordance with this section.

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

- (3) Quota holders and any person who is eligible to receive a licence as a producer may participate in the auction.
- (4) Any person wishing to participate in the live auction must register with the Board's office and must inform a licensed hatchery of their intention.
- (5) Any person wishing to participate in the auction must also provide evidence to the Board, in a form satisfactory to the Board, that satisfies the Board as to the person's financial capability to pay the quota allocation fee.
- (6) The Board may determine the number of blocks of breeder quota to be offered for auction and the amount of breeder quota to be included in each block.
- (7) The amount of quota allocation fee paid by a person acquiring breeder quota by auction pursuant to this section must be determined by the amount of the successful bid made by that person for the block of breeder quota being offered or for the portion of it that the person wishes to acquire.
- (8) A person who is not a quota holder and whose bid is accepted must make application for a producer's licence under section 4, and the Board must determine whether the applicant is eligible to receive a producer's licence under section 5.
- (9) An offer to a successful bidder is effective only when the Board has confirmed in writing that
- (a) the bidder's offer has been accepted by the Board,
 - (b) the quota allocation fee required has been paid within the time required by the Board,
 - (c) where the successful bidder is not a quota holder, the successful bidder is eligible to receive a producer's licence, and
 - (d) the Board is satisfied that the bidder has complied with this Regulation.
- (10) No amount of breeder quota shall be offered to a quota holder if as a result that quota holder's quota would exceed the quota limit established under section 21.
- (11) A person who receives an allocation of breeder quota under this section must place the increase within 72 weeks from the date that the confirmation was sent to the producer under subsection (9), and this time limit shall not be extended or modified by any

transfer of the allocation and the transferee must place the increase within whatever portion of the 72-week period remains.

(12) If any increase in breeder quota is not placed as required under subsection (11), no extension shall be given by the Board and

- (a) the increase is revoked, and
- (b) the amount of that increase must be added to the quota bank.

(13) If the allocation is revoked under subsection (12), the Board retains the quota allocation fee paid.

(14) The Board may establish procedures and terms and conditions for the conduct of an auction.

AR 280/97 s19;91/2001

Quota bank

20(1) The quota bank is comprised of any amount of breeder quota added to the quota bank under subsections (2) and (4) and sections 19(12) and 29(2)(c).

(2) When the Board determines that there is a sufficient amount of breeder quota in the quota bank to allow blocks of breeder quota to be auctioned, the Board must determine the number of blocks of quota to be auctioned and the amount of breeder quota to be included in each block.

(3) The procedures to be followed in an auction of breeder quota under this section are the procedures described in section 19.

(4) A person who has received an allocation of breeder quota under this section on or before June 30, 2001 is subject to the requirements imposed by section 20(8) as it existed on June 30, 2001.

AR 280/97 s20;145/99;91/2001

Quota limit

21(1) The Board shall not allow in excess of

- (a) 6.5% of the total provincial allocation to be held, directly or indirectly, by a person, or
- (b) 8% of the total provincial allocation to be produced in a facility.

(2) For the purposes of subsection (1), the Board may

- (a) reduce or cancel breeder quota,
- (b) approve a transfer of breeder quota pursuant to an application under section 22,
- (c) rescind the Board's approval of a lease of breeder quota, or
- (d) take any other action the Board considers necessary.

(3) The Board may determine that a person holds breeder quota indirectly if, in the opinion of the Board, the person may benefit from or has an interest in that quota.

(4) Subsection (3) does not apply to the shares a person holds in a corporation that holds breeder quota if

- (a) the corporation is a distributing corporation under the *Business Corporations Act* and
 - (i) the shares are non-voting shares, or
 - (ii) the person owns 10% or less of the voting shares,
- (b) the shares were obtained as part of a bona fide employee benefit program where
 - (i) no more than 2% of the shares are transferred to an employee in a year, and
 - (ii) the employee cannot obtain more than 10% of the outstanding shares of the corporation,

or

- (c) the shares are in a co-operative that has more than 200 members.

AR 280/97 s21;145/99;91/2001;48/2008

Transfer of quota

22(1) Breeder quota is not transferable unless the transfer is approved by the Board.

(2) Breeder quota that is purported to be transferred without the approval of the Board is cancelled at the time of the purported transfer.

(3) An application to approve a transfer must be made to the Board in writing 30 days prior to the proposed transfer.

- (4) The Board may approve an application to transfer breeder quota if it is satisfied
- (a) the proposed transferee will qualify for a licence to operate as a producer under this Regulation, and
 - (b) the proposed transfer is an appropriate size, taking into account the requirements of the licensed hatchery that will set the hatching eggs produced.
- (5) If an application to transfer breeder quota is approved by the Board, the Board shall cancel the breeder quota and reallocate it to the proposed transferee.

AR 280/97 s22;145/99;125/2003;48/2008

Transfer of shares of corporate quota holder

- 22.1(1)** An organization's breeder quota may be cancelled or reduced by the Board if an interest in the organization was transferred without the prior approval of the Board.
- (2) An application to approve a transfer must be made to the Board in writing 30 days prior to a proposed transfer.
- (3) The Board may approve the transfer if it is satisfied the corporation will still qualify for a licence under this Regulation.
- (4) Subsection (1) does not apply to the transfer of the shares of a corporation
- (a) to a person who, under section 21, cannot be considered by the Board to indirectly hold the corporation's breeder quota, or
 - (b) between shareholders in an incorporated family farm.

AR 48/2008 s6

Transfer fee

- 23(1)** A person proposing to transfer quota must pay a fee of \$100 to the Board.
- (2) Repealed AR 337/2002 s10.

AR 280/97 s23;337/2002

Lease of quota

- 24(1)** The Board may allow a quota holder to lease breeder quota to
- (a) a quota holder, or

- (b) another person who is approved by the Board as a lessee of breeder quota.
- (2)** An application to lease quota must
- (a) be made in writing to the Board by the breeder quota holder;
 - (b) be endorsed by the proposed lessee;
 - (c) include any information that the Board may require;
 - (d) include the lease application fee that is set by the Board.
- (3)** If an authorization to lease is granted, the Board may make the authorization subject to those terms and conditions the Board considers appropriate in the circumstances.
- (4)** Where an authorization to lease quota is granted,
- (a) the lessee shall have the rights of and shall comply with the obligations of the breeder quota holder set out in the Plan and this Regulation, and
 - (b) the breeder quota holder shall not exercise any rights of a breeder quota holder during the term of the lease.
- (5)** The breeder quota holder and lessee of that breeder quota are jointly and severally liable for
- (a) all service charges assessed under this Regulation,
 - (b) all levies assessed under this Regulation, and
 - (c) any judgment obtained in respect of those service charges or levies.
- (6)** The Board shall not allow a lease of quota from a breeder quota holder to a lessee if
- (a) the quota holder has outstanding service charges or levies payable to the Board, or
 - (b) repealed AR 48/2008 s7,
 - (c) the lease is for a term that exceeds 3 replacement cycles.
- (7)** The Board may rescind its approval of a lease if either the breeder quota holder or the lessee fail to comply with the Plan, this Regulation or a term or condition of the approval imposed by the Board.

(8) When an approval is rescinded or a lease terminates, the breeder quota holder by virtue of the recession or termination takes back the breeder quota together with any increases that may have been allocated in respect of that quota and subject to any liabilities that may have been imposed in respect of that quota under the Act or this Regulation.

AR 280/97 s24;145/99;48/2008

Research permit

25(1) The Board may grant a research permit to a person if, in the opinion of the Board,

- (a) the hatching eggs are to be used for research purposes,
- (b) there will not be any significant detrimental effect on breeder quota holders,
- (c) there will be potential advantages to the hatching egg industry from the proposed research, and
- (d) results of the research will be available to the Board and all producers.

(2) The Board may impose conditions in respect of the research permit to ensure compliance with subsection (1).

(3) A research permit holder may, with the written permission of the Board, market the hatching eggs, breeder chicks, breeder pullets, breeder hens, breeder cockerels and broiler chicks maintained or produced under the research permit.

(4) The Board may impose conditions in respect of marketings allowed under subsection (3).

(5) The Board may revoke a research permit if the research permit holder fails to comply with any condition imposed by the Board under subsection (2) or (4).

(6) A research permit holder is not eligible to receive further breeder quota under section 19.

(7) Notwithstanding subsection (6), if a research permit holder is also a breeder quota holder, that quota holder is eligible to receive under section 19 further quota increases solely in respect of that breeder quota.

(8) A research permit may be granted for a period of not more than 69 weeks.

- (9) A person who holds or has held a research permit may apply from time to time for a further research permit in accordance with this section.
- (10) The Board shall collect all applicable service charges and reimburse the holder of the research permit in an amount equal to the Board's portion of the service charge.

Financial interest in production facilities

- 26(1)** With the written consent of a quota holder, a secured lender may register a financial interest with the Board in the manner and form that the Board prescribes.
- (2) When a financial interest is registered under subsection (1), the Board must notify the affected quota holder of the registration.
- (3) If a financial interest is registered under subsection (1), the Board must notify the secured lender of any application to transfer breeder quota that is allocated to the facility to which the registration applies.
- (4) Unless the secured lender who has registered a financial interest has given written consent to the transfer, the Board shall not approve the transfer of breeder quota that is allocated to the facility to which the registration applies.
- (5) A quota holder against whom a financial interest is registered with the Board may apply to the Board to have the financial interest de-registered with the Board.
- (6) Where an application is made under subsection (5), the Board may de-register the financial interest with the Board if
- (a) the secured lender agrees in writing, or
 - (b) the Board is satisfied that the secured lender no longer has any interest in the facility.
- (7) A financial interest shall not be de-registered with the Board unless the secured lender
- (a) has been given notice of the application made under subsection (5) at least 14 days before the day that the Board is to consider the application, and
 - (b) has been provided with an opportunity to make submissions to the Board.

Enforcement of financial interest in production facilities

27(1) Where a secured lender enforces the secured lender's security and becomes the legal or equitable owner of the facility of a quota holder of breeder quota, the Board may do one or more of the following:

- (a) allow the secured lender to produce and market hatching eggs under the breeder quota allocated to the facility for a period of no longer than 2 years, during which time the secured lender must endeavour to transfer the quota to another person under section 22;
- (b) allow the secured lender to lease the breeder quota allocated to that facility for a period of no longer than 2 years, during which time the secured lender must endeavour to transfer the quota to another person under section 22;
- (c) allocate all or any portion of the breeder quota to a person who purchases the facility from the secured lender if the Board is satisfied that the purchaser is or intends to become a quota holder and a licensed producer;
- (d) allocate all or any portion of the breeder quota to the secured lender if the secured lender applies to become the quota holder and is approved by the Board.

(2) If a breeder quota has not been transferred within the time period set out in subsection (1)(a) or (b), the Board may

- (a) cancel the breeder quota, or
- (b) on written application by the secured lender, extend that time period referred to in subsection (1)(a) or (b).

AR 280/97 s27;337/2002;154/2005;48/2008

Reduction in or loss of quota

28(1) The Board may reduce or cancel breeder quota held by a quota holder where the quota holder

- (a) fails to observe, perform or carry out the provisions of the Act, the regulations or any order of the Council or the Board, or
- (b) has not used or has voluntarily given up all or any portion of the breeder quota.

(2) If breeder quota allocation under this Regulation is not placed within 72 weeks from the day that the quota is allocated, the

breeder quota is revoked at the conclusion of that 72-week period unless the Board otherwise directs.

(3) Subject to section 19(7), if a quota holder fails to market hatching eggs for a period of 12 consecutive months, the breeder quota held by that quota holder is revoked at the conclusion of that 12-month period, unless the Board otherwise directs.

(4) Breeder quota is revoked upon the quota holder's producer licence being suspended or revoked.

(5) Repealed AR 48/2008 s9.

(6) The Board may revoke any quota that is not filled in a replacement cycle, unless the Board is satisfied that extenuating circumstances prevent the producer from filling the quota.

AR 280/97 s28;91/2001;48/2008

Reversion of quota

29(1) Any quota that is revoked or cancelled reverts to the Board.

(2) The Board may deal with any quota that reverts to the Board in a manner that, in the opinion of the Board, will best protect the industry, including, without limiting the generality of the foregoing,

(a) leasing the quota or any portion of it to a quota holder, or

(b) repealed AR 91/2001 s7,

(c) placing the quota or any portion of it in the quota bank.

AR 280/97 s29;91/2001

Part 3 Service Charges

Service charges

30(1) A licensed producer must pay to the Board a service charge, in an amount to be set by the Board from time to time, for each hatching egg marketed by the licensed producer.

(2) The service charge payable under subsection (1) must be deducted by the licensed hatchery from the proceeds payable to the producer for each egg set by the hatchery and paid to the Board within 30 days from the day that the eggs were set.

(3) Every licensed hatchery must pay to the Board a service charge of \$0.0015 for each hatching egg set by the licensed hatchery that has not been received from a licensed producer.

- (4) The service charge paid under subsection (3) must be used for research purposes by the Board.
- (5) The Board may collect by suit in court
- (a) from the licensed producer, the service charge payable under subsection (1);
 - (b) from the licensed hatchery, the service charge payable under subsection (3);
 - (c) from the licensed hatchery, any service charges deducted by the hatchery under subsection (1) and not forwarded to the Board;
 - (d) from the licensed hatchery, a sum in an amount equal to the amount of the service charge required to be deducted under subsection (1) to the extent that the hatchery failed to make the required deduction.
- (6) A producer and hatchery are jointly and severally liable to the Board for the amount of any service charges not deducted from the amount payable to the producer.

AR 280/97 s30;145/99;337/2002

Weekly statements

- 31(1)** Unless otherwise approved in advance by the Board, every hatchery must prepare a statement at the end of each week showing the following:
- (a) the name, address and registration number of each licensed producer from whom it received hatching eggs in that week;
 - (b) the number of hatching eggs received;
 - (c) the number of hatching eggs set;
 - (d) the amount of the service charges deducted for the account of the Board for each licensed producer in that week;
 - (e) the amount of service charges payable in respect of hatching eggs set that were not received from licensed producers;
 - (f) the number of eggs set that were transferred from another hatchery in Alberta;
 - (g) the number of eggs set that were acquired from outside Alberta;

(h) any other information as may be required by the Board.

(2) The statement prepared under subsection (1) and the service charges so collected or otherwise in the possession of the hatchery must be forwarded to the Board in time to reach the head office of the Board not later than Wednesday of the week next following.

Monthly statements

32 Unless otherwise approved in advance by the Board, every hatchery must prepare a statement at the end of each month showing the following:

- (a) the number of hatching eggs received from outside Alberta in that month;
- (b) the number of hatching eggs received from outside Alberta in that month that were set by the hatchery;
- (c) the number of hatching eggs shipped to points outside Alberta during that month;
- (d) the number of hatching eggs on hand at the end of the month, not including hatching eggs in incubators.

Records

33(1) The Board may require every person who is engaged in production or marketing of the regulated product to furnish information relating to that production or marketing of the regulated product.

(2) Every person who is engaged in the production or marketing of the regulated product must keep a complete and accurate record of all matters relating to the production and marketing of the regulated product that apply to that person's operation and, without limiting the generality of the foregoing, must include the following on a flock by flock basis:

- (a) placement records;
- (b) invoices from hatcheries for breeder hens;
- (c) transportation records;
- (d) bills of lading;
- (e) licensed hatchery receiving records;
- (f) records of payments to producers including vouchers or statements;

- (g) licensed hatchery reports and records including those relating to hatchability, chick quality and intra-provincial and inter-provincial trade;
- (h) flock production records.

(3) All records maintained in accordance with this section must be available to the Board or any representative of the Board during ordinary business hours.

Part 4 Production

Notice of production variation

34(1) The Board may, by notice in writing to a licensed producer, vary from time to time the production of that producer as warranted by a change in the general marketing conditions and thereby require that producer to lower or increase the number of hatching eggs that may be marketed by the producer.

(2) Any changes in production made by the Board pursuant to this section may be stated in terms of one or more of the following:

- (a) the age at which breeder hens must be marketed;
- (b) a percentage of quota;
- (c) a requirement that surplus hatching eggs be disposed of by a means other than hatching in a manner determined by the Board;
- (d) a delay or advancement of flock placements as determined by a formula established by the Board.

(3) Where the Board considers it appropriate, the Board may provide for compensation to producers for any delay or advancement of flock placements referred to in subsection (2)(d).

Administrative order

34.1(1) Where the Board considers it necessary to adjust an imbalance in the supply of hatching eggs to licensed hatcheries, the Board may do one or more of the following by administrative order:

- (a) direct the transfer of hatching eggs from one licensed hatchery to another licensed hatchery;

- (b) direct that all hatching eggs to be produced from one or more specific flocks of breeder hens be transferred to a designated licensed hatchery;
- (c) direct that a producer transfer the marketing of its hatching eggs to a designated licensed hatchery.

(2) The Board must not make an administrative order that permanently transfers the marketing of hatching eggs from a producer to a new licensed hatchery without first consulting with the producer and the licensed hatchery.

AR 154/2005 s5

Change in utilization factor

35(1) When the Board wishes to vary the production of hatching eggs to accommodate an anticipated change in the demand for hatching eggs, the Board may increase or reduce the marketing allocation by changing the allowed percentage of utilization for the breeder quota.

(2) Where the Board changes the allowed percentage of utilization of a breeder quota,

- (a) the Board must make the change so that the change begins with a specified production cycle, and
- (b) any change made in respect of allowed percentage of utilization continues until it is once again changed by the Board.

(3) Where the Board establishes a marketing authorization under this section, a licensed producer shall not produce or market hatchery eggs except in accordance with that marketing authorization.

Cycle adjustment

36(0.1) In this section “designated flock life” means the period of time from the week a flock of breeder hens is placed with a licensed producer to the week the flock is to be removed from the production of hatching eggs as determined by the Board.

(1) In order for the Board

- (a) to meet, as closely as possible, the market requirements for hatching eggs in Alberta, and
- (b) to produce the appropriate number of hatching eggs to meet the national allocation apportioned to Alberta by the national agency,

the Board may establish the designated flock life.

(2) Subject to subsections (3), (3.1) and (4), a licensed hatchery that has contracted with a producer to receive hatching eggs must continue to accept hatching eggs from that producer until the designated flock life of the flock from which they are produced is reached.

(3) A licensed hatchery may reduce the designated flock life but may do so by no more than 7 days.

(3.1) A licensed hatchery may increase the designated flock life but may do so by no more than 7 days.

(4) If a hatchery directs the slaughter of a contracted flock earlier than otherwise provided for, the hatchery must pay compensation to the licensed producer under a formula established from time to time by the Board.

(4.1) On application by a licensed hatchery, the Board may extend the designated flock life beyond the period of time referred to under subsection (3.1) if the Board determines that special or extenuating circumstances exist.

(5) A licensed hatchery is not liable to pay compensation to a licensed producer when flock life is reduced by the Board below the designated flock life if the Board orders early disposal of a flock for any of the following reasons:

- (a) contagious disease;
- (b) inhumane treatment;
- (c) the interest of the public or the industry.

(6) A hatchery must forward to the Board the hatchery's records or copies of records for each breeder flock shipped by the hatchery for processing indicating the following:

- (a) the number of birds slaughtered;
- (b) the date of slaughter;
- (c) the owner of the birds;
- (d) flock placement date and flock identification, if possible.

(7) Records or copies of those records referred to in subsection (6) that are to be forwarded to the Board under this section must be forwarded to the Board within 7 days from the day of the processing of the flock.

Placement

- 37(1)** A licensed producer must place breeder chicks in accordance with the replacement cycle established for that producer by the Board.
- (2)** A licensed producer may apply to the Board to amend that producer's placement so that all chicks are not placed at the same time, but are placed in intervals acceptable to the Board.
- (3)** In the event the Board amends the date of placement for a producer, the Board may also amend that producer's marketing authorization so that on an annual basis that producer can produce and market the same number of hatching eggs as if the cycle had not been amended.

Overproduction

- 38(1)** If a holder of breeder quota places more breeder hens or chicks than authorized under that person's quota, the Board may, without providing any compensation, order that the number of hens exceeding the quota be removed.
- (2)** Where a person to whom an order is made under subsection (1) does not remove the breeder hens in accordance with the order, the Board may remove the breeder hens.
- (3)** Subsections (1) and (2) do not apply where a holder of a quota has obtained approval from the Board for a lease of additional breeder quota under which additional breeder hens or chicks may be placed at the quota holder's facility.
- (4)** Notwithstanding subsection (1), where a holder of breeder quota has breeder hens or chicks that are in excess of that authorized under that quota holder's breeder quota, the Board may permit that quota holder to retain those excess birds or some of those excess birds if that quota holder
- (a)** is able to locate breeder quota that is available for lease from another quota holder under which the excess birds may be raised and maintained, and
 - (b)** is able to acquire that breeder quota from that other quota holder pursuant to a lease authorized under section 24.
- (5)** Notwithstanding section 36(4.1), if a licensed producer fails to remove from production a flock that has been in production for greater than the time period referred to in section 36(3.1), the licensed producer will be subject to an overproduction penalty of \$0.28 for every settable egg produced from that flock.

AR 280/97 s38;337/2002;154/2005

Part 5 General

Notices

39(1) When a notice is required to be given under this Regulation,

- (a) in the case of a notice to be given by the Board, the Board must give the notice in writing and serve it on the person to whom it is directed
 - (i) by personal service, or
 - (ii) by double registered mail or certified mail addressed to that person at the mailing address for that person recorded in the records of the Board,

and

- (b) in the case of a notice to be given to the Board, the person giving the notice must give the notice in writing to the Board by mailing the notice to the head office of the Board.

(2) Notwithstanding subsection (1), where

- (a) a person to whom the Board is to give a notice agrees to be provided with the notice by a means other than a means referred to in subsection (1)(a), that person may be provided with that notice by that other means, or
- (b) the Board agrees to be provided with a notice by a means other than the means referred to in subsection (1)(b), the Board may be provided with that notice by that other means.

Information change

40 If any change occurs in the information provided to the Board by a licensed producer or hatchery, that person must notify the Board of the change forthwith after the change occurs.

AR 280/97 s40;337/2002

Prohibitions re sale of hatching eggs

41(1) A person shall not sell, offer for sale or deliver hatching eggs unless that person is licensed under this Regulation.

(2) It is a condition of the licence referred to in subsection (1) that the licensed person shall not sell, offer for sale or deliver hatching eggs to any person other than a licensed hatchery or to the order of

a licensed hatchery unless that person is specifically authorized to do so by the Board.

(3) Notwithstanding subsection (1), a licensed producer may sell or offer for sale the hatching eggs produced by that person from that person's farm home, roadside stand adjacent to that person's production facilities or from a stall in a public market.

Prohibition re hatchery

42 It is a condition of a hatchery's licence that the licensed hatchery shall not buy, accept or receive the hatching eggs from any person other than

- (a) a licensed producer or a licensed hatchery, or
- (b) under the terms of an agreement made under a Canada Act.

Prohibition re minimum price

43 It is a condition of a producer's licence and a hatchery's licence that the licensed producer or licensed hatchery, as the case may be, shall not sell, buy or offer to sell or buy the hatching eggs at a price that is less than the minimum price prescribed by the Board.

AR 280/97 s43;68/2010

Prohibition re licensed producer

44 It is a condition of a hatchery's licence that the licensed hatchery shall not, unless specifically ordered by the Board to do so, accept or market hatching eggs produced by any producer who does not hold a subsisting producer's licence.

Prohibition re marketing

45 It is a condition of a producer's licence that the licensed producer shall not, unless otherwise authorized in writing by the Board or under a lease referred to in section 24, market hatching eggs unless those eggs are produced in the facility in respect of which that producer's quota was allocated.

Transitional Provision

Transitional

46 Quota issued under the *Broiler Hatching Eggs Regulation* (AR 266/82) is continued as breeder quota under this Regulation.

Repeal**Repeal**

47 The *Broiler Hatching Eggs Regulation* (Alta. Reg. 266/82) is repealed.

Expiry**Expiry**

48 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, 2014.

AR 280/97 s48;337/2002;11/2008;126/2009