

# BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION

## CONSOLIDATED ORDER OF SEPTEMBER 6, 2009

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Persons who need to rely on the text of the *Consolidated Order* for legal and other purposes may obtain the official version of the *Consolidated Order of September 6, 2009*, as amended, from the British Columbia Broiler Hatching Egg Commission, Suite 180 - 32160 South Fraser Way, Abbotsford, B.C., V2T 1W5. Telephone: (604) 850-1854.

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## PART I - INTRODUCTORY

### Purpose of Order

1. The British Columbia Broiler Hatching Egg Commission (the "Commission") has approved this Consolidated Order for the purpose of promoting, regulating and controlling the production, transportation, packing, storage and marketing of broiler hatching eggs, saleable chicks or broiler breeders.

### Interpretation

2. In this and all Orders of the Commission, unless the context requires otherwise, the definitions contained in the *Natural Products Marketing (BC) Act*, R.S.B.C. 1996, c. 330 and the *British Columbia Broiler Hatching Egg Scheme* (B.C. Reg. 432/88) shall have effect together with the following additional definitions:

**"Breaker Quality Eggs"** means unbroken Cull Eggs and Underweight Broiler Hatching Eggs, other than Cull Underweight Broiler Hatching Eggs.

**"Chick"** means a live chick at the time of hatch and includes a Cull Chick.

**"Committee"** means the Pricing and Production Advisory Committee.

**"Cull Chick"** means a chick having any one or more of the following characteristics: poor legs, skin tears, club down, missing eye(s), crossed beak, unthrifty appearance, dirty or matted with hatch material, scabby navel, body lesion(s), or curled toes.

**"Cull Chick Rate"** means the ratio expressed as a percentage by dividing the number of Cull Chicks from a given Set by the number of Chicks from that Set.

**"Cull Egg"** means a broiler hatching egg not yet placed in a Hatchery's incubator and having any one or more of the following characteristics: soft shelled, cracked, rough shelled, misshapen, too large, stained or dirty.

**"Cull Underweight Broiler Hatching Eggs"** mean Underweight Broiler Hatching Eggs having any one or more of the following characteristics: punctured, broken, very dirty or mouldy.

**"Egg Service Room"** means a facility operated by a Producer for the purpose of washing or sanitizing, final grading and packaging of broiler hatching eggs.

**"Egg Storage Room"** means a facility operated by a Producer for the purpose of storing broiler hatching eggs and packaging for broiler hatching eggs.

**“F.A.S.”** means freight alongside applies to the terms of sale whereby Producers will deliver their broiler hatching eggs crated and ready for pick up by Hatcheries at the Producer’s Farm.

**“Farm”** means land on which crops, poultry or livestock are raised.

**“Fowl”** means spent broiler breeders no longer raised or used for the production of broiler hatching eggs.

**“Grower”** means a Person operating a Farm for the production of broilers regulated by the British Columbia Chicken Marketing Board, and includes any Person designated by that marketing board as a Grower.

**“Hatchability”** means:

- (a) where the Cull Chick Rate is 4% or less, the ratio expressed as a percentage by dividing the number of Chicks from a given Set by the number of broiler hatching eggs in that Set; or
- (b) where the Cull Chick Rate is greater than 4%, the ratio expressed as a percentage by dividing:
  - (i) the number of Chicks from a given Set
  - less
  - (ii) the amount by which the number of Cull Chicks from that Set exceeds 4% of the number of Chicks from that Set

by the number of broiler hatching eggs in that Set.

**“Hatchery”** means a Person operating a facility for the hatching and incubation of broiler hatching eggs into broiler chicks for delivery to a Grower.

**“Independent Production Unit”** means a Production Unit that is geographically and operationally separate from a Production Unit on which any other Person is actively engaged in broiler hatching egg production;

**“Lay Barn”** means a barn operated by a Producer for the purpose of producing broiler hatching eggs.

**“Member”** means a member of the Commission and includes the Chair of the Commission.

**“Official Flock Schedule”** means the schedule established, maintained and revised from time to time by the Commission, for the purpose of recording for each Registered Producer:

- (a) The date of placement of each flock of day-old broiler breeder pullets;

- (b) The size of each flock of day-old broiler breeder pullets; and
- (c) The Hatchery responsible for the ordering and placement of each flock of day-old broiler breeder pullets.

“**Person**” means a person as defined in the *Interpretation Act*, R.S.B.C. 1996, c. 238.

“**Pick-Up**” means broiler hatching eggs received by a Hatchery from a Producer for transport to that Hatchery.

“**Placement Quota**” means the maximum quantity, as determined by the Commission, of broiler breeder pullets that may be received by a Producer in a Quota Period for the purpose of producing broiler hatching eggs, excluding any allowances for mortality in shipment.

“**Private Interest**” does not include an interest arising from the exercise of an official power or the performance of an official duty or function that:

- (a) applies to the general public;
- (b) affects a Member as one of a broad class; or
- (c) concerns the remuneration and benefits of a Member of the Commission.

“**Processor**” means a Person who receives Fowl and changes its nature by mechanical means or otherwise and delivers or markets Fowl in a processed or manufactured form.

“**Producer**” means a Person who uses a Farm for the purpose of producing broiler hatching eggs.

“**Producer-Hatchery**” means a Hatchery that is affiliated with one or more Producers by reason of:

- (a) the Producer or Producers having a direct or indirect interest in the Hatchery, whether by means of shares (and irrespective of the class of shares) or by way of a share interest in a parent corporation;
- (b) the Producer or Producers carrying on business with the Hatchery in partnership; or
- (c) the Producer or Producers being controlled by the same Person or group of Persons who control the Hatchery.

“**Production Unit**” means a Farm where broiler breeders are raised, or where broiler hatching eggs are produced, or both.

**“Quota Period”** means a twenty four (24) month period commencing April 1<sup>st</sup>.

**“Registered Producer”** means a Producer registered by the Commission and recorded in the Register of Producers kept at the Commission’s head office.

**“Reporting Period”** means a one week period commencing on Sunday and ending on Saturday.

**“Saleable Chick”** means a Chick other than a Cull Chick.

**“Set”** means broiler hatching eggs from a Producer that are placed, contemporaneously, in a Hatchery’s incubator.

**“Permissible Lease”** means a Transfer of Placement Quota by way of lease or licence for a term of not more than two years.

**“Special Allotment”** means:

- (a) a general allotment of Placement Quota by the Commission; or
- (b) a special issuance of Placement Quota in accordance with the New Producer Program Rules set out in Schedule 1.

**“Transfer”** means a direct or indirect, legal or equitable, permissible or impermissible transfer of an interest in Placement Quota, or the grant of an option to transfer an interest in Placement Quota, and in the case Placement Quota allotted to a corporation includes a transfer of shares or an interest in shares of the corporation or the issuance of additional shares or redemption of existing shares which results in a change in the proportion of shares held by each shareholder; but does not include the grant of a security interest in Placement Quota in favour of a bona fide lender.

**“Transferee”** means the Person to whom Placement Quota is being Transferred.

**“Transferor”** means the Person from whom Placement Quota is being Transferred.

**“Transporter”** means a Person who owns or operates a vehicle or vehicles for the transportation of regulated product.

**“Underweight Broiler Hatching Eggs”** mean broiler hatching eggs weighing less than 52 grams.

**“Unmarketable Eggs”** means broken Cull Eggs and Cull Underweight Broiler Hatching Eggs.

## **PART II - LICENSING**

### **Requirement to Hold Licence**

3. (1) No Person shall act as a Producer, Hatchery, Processor or Transporter unless in possession of a valid and subsisting licence issued by the Commission, and no Person shall be relieved of compliance with this requirement in respect of any class of licence on the grounds that such Person is the holder of a valid and subsisting licence of another class.
- (2) Notwithstanding subsection (1), every Producer who is the holder of a valid and subsisting Producer licence may act as a Transporter without a Transporter licence.

### **Licence Classes**

4. Every application for a licence must be made to the Commission in the required form.

### **General Conditions**

5. (1) It is a condition of issuance and maintenance of every licence that the applicant or holder complies with the Orders of the Commission from time to time in force and all applicable legislation and regulations.
- (2) Subject to subsection (3), no more than one Producer licence shall be issued with respect to a single Production Unit.
- (3) Two or more Producers may apply to the Commission to dispense with the limitation imposed under subsection (2). No dispensation of the limitation imposed under subsection (2) shall be effective unless approval is given by the Commission in writing. Where the Commission has granted such written approval, every Producer whose licence is permitted to issue with respect to a single Production Unit shall be jointly and severally responsible and accountable for every incident of non-compliance, howsoever caused, in any way relating to or arising from that Production Unit.
- (4) One Producer licence may be issued with respect to more than one Production Unit.
- (5) No licence shall be issued to any individual who is under the age of nineteen years, or to any corporation controlled by any individuals under the age of nineteen years, or to any partnership with respect to which any individual member is under the age of nineteen years.

- (6) When a Producer holding a licence is a partnership or a corporation and undergoes a change in controlling partners or control of the corporation, the licence of such Producer is subject to revocation by the Commission. For the purpose of this subsection, a change in control of a corporation shall be a change in ownership, direct or indirect, of the majority voting shares of the corporation and a change in controlling partners is a change of partner or partners entitled to a 50% or greater interest in the partnership.
- (7) Licences are not transferable.

### **Special Conditions for Hatcheries**

- 6. (1) It is a condition of issuance and maintenance of every Hatchery Licence that the applicant or holder:
  - (a) make and maintain mutually acceptable arrangements with one or more Producers duly licensed by the Commission for a consistent supply of broiler hatching eggs sufficient to meet the requirements of the applicant or holder;
  - (b) place all broiler hatching eggs produced by the Producer or Producers referred to in paragraph (a) into its incubators in a timely fashion and as soon after such broiler hatching eggs are laid as is reasonably possible;
  - (c) make and maintain mutually acceptable arrangements with one or more chicken growers duly licensed by the British Columbia Chicken Marketing Board for the purchase and sale of all Chicks hatched from broiler hatching eggs produced by the Producer or Producers referred to in paragraph (a); and
  - (d) satisfy the Commission that the chicken grower or growers referred to in paragraph (c) have each made mutually acceptable arrangements with one or more chicken processors duly licensed by the British Columbia Chicken Marketing Board for the purchase and sale of all chicken grown from Chicks hatched by the applicant or holder, for a term not less than six production periods of eight weeks each.
- (2) Without limiting the application of subsection (1), every Producer-Hatchery must comply with one of the following additional conditions for the issuance and maintenance a Hatchery Licence:
  - (a) the applicant or holder must place all broiler hatching eggs produced by the affiliated Producer or Producers into its incubators in a timely fashion and as soon after such broiler hatching eggs are laid as is reasonably possible; or

- (b) the applicant or holder must make mutually acceptable arrangements with another Hatchery to receive and purchase any and all broiler hatching eggs produced by the affiliated Producer or Producers that cannot be placed by the applicant or holder into its incubators in a timely fashion and as soon after such broiler hatching eggs are laid as is reasonably possible; or
- (c) the applicant or holder must:
  - (i) make mutually acceptable arrangements with another Hatchery to receive and purchase all broiler hatching eggs produced by the affiliated Producer or Producers; and
  - (ii) the applicant or holder must accept and purchase broiler hatching eggs other than from the Producer or Producers affiliated with the applicant or holder.

## **Renewal**

7. At the commencement of a Quota Period, the Commission will renew:
- (a) Producer licences upon receipt of the prescribed application, provided that the Producer has maintained compliance with all Orders of the Commission from time to time in force and all applicable legislation and regulations;
  - (b) Hatchery licences upon receipt of the prescribed application, provided that the Hatchery has maintained compliance with all Orders of the Commission time to time in force and all applicable legislation and regulations;
  - (c) Processor licences, without application, provided that the Processor has maintained compliance with all Orders of the Commission from time to time in force and all applicable legislation and regulations; and
  - (d) Transporter licences, without application, provided that the Transporter has maintained compliance with all Orders of the Commission from time to time in force and all applicable legislation and regulations.

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### **PART III - ALLOTMENT AND REGISTRATION OF PLACEMENT QUOTA**

#### **Allotment of Placement Quota**

8. (1) The Commission may allot Placement Quota to Producers or adjust, reduce, alter or cancel Placement Quota allotted to such Producers, at such time or times, in such amounts and in such a manner as may be determined by it.
- (2) Unless otherwise determined by the Commission:
  - (a) Placement Quota shall not be allotted to any individual who is under the age of nineteen years, or to any corporation controlled by any individuals under the age of nineteen years, or to any partnership with respect to which any individual member is under the age of nineteen years.
  - (b) Placement Quota allotted to a Producer that is not produced by that Producer in a Quota Period is subject to cancellation by the Commission, except in the event of exceptional circumstances as determined by the Commission in its sole discretion.
  - (c) No Producer may Transfer Placement Quota by way of lease or licence for a term exceeding two years, and any such Placement Quota so leased or licensed is subject to cancellation by the Commission.
  - (d) No Producer shall be permitted to hold an allotment of Placement Quota of less than 12,000 broiler breeder pullets per Quota Period, except where the Producer is an entrant under the New Producer Program Rules set out in Schedule 1.
- (3) All Placement Quota is a revocable licence to produce only and remains the exclusive property of the Commission.

#### **Special Issuance of Placement Quota Under New Producer Program**

9. The Commission may issue Placement Quota in accordance with the New Producer Program Rules set out in Schedule 1.

### **Registration of Placement Quota to Independent Production Unit**

10. (1) Placement Quota allotted by the Commission to a Producer shall be registered to the Independent Production Unit or Units described in the Producer licence.
- (2) Where a Producer operates more than one Independent Production Unit under a single Producer licence, Placement Quota allotted to that Producer will be apportioned by the Commission and registered to each such Independent Production Unit as directed by the Producer or, in the absence of such direction, in such amounts and in such a manner as may be determined by Commission.
- (3) All broiler breeders shall be kept on and marketed from the Independent Production Unit or Units described in the Producer licence in a manner consistent with the Placement Quota registered to the Independent Production Unit or Units, as the case may be, unless the Commission otherwise consents in writing.
- (4) The location of an Independent Production Unit to which Placement Quota is registered shall not be changed in whole or in part, unless the Commission otherwise consents in writing.

### **Registration of Placement Quota to Producer**

11. (1) Placement Quota allotted to a Producer who is a sole proprietor will be registered by the Commission in the name of the Producer. If the Producer requests that the Placement Quota be registered to a business name that is different from the Producer's name, the Placement Quota will be registered to both the business name and the Producer's name.
- (2) Placement Quota allotted to a Producer which is a partnership will be registered by the Commission in the partnership name and individual names of all of the partners. At the time of first registration, and subsequently as required by the Commission, the partnership shall file with the Commission a true copy of the partnership agreement showing the name of each partner and the interest that each partner has in the partnership. The partnership shall inform the Commission in writing one calendar month before any subsequent change is made in the partners or in the interest each has in the partnership.
- (3) Placement Quota allotted to a Producer which is a corporation will be registered by the Commission in the corporate name and the name of the president or majority shareholder. At the time of first registration, and subsequently as required by the Commission, the corporation shall file with the Commission a true copy of the Certificate of Incorporation and the Register of Members. The corporation shall inform the Commission in writing one calendar month before any subsequent change is made to the share allotment within, or structure of, the corporation.

- (4) Placement Quota allotted in the name of a corporation is deemed to have been allotted to each shareholder, whether holding voting shares or not, in proportion to their share holdings of issued shares in the corporation.
- (5) The Commission may require a Producer, which is a partnership or a corporation, to file with the Commission at any time subsequent to first registration, a true copy of the partnership agreement or register of members of the corporation.
- (6) Failure by a Producer to provide the Commission with any of the documents required by the Commission within the time period stated by the Commission shall result in the suspension of the offending licensee's licence and Placement Quota until the required document is filed and approved by the Commission.

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## **PART IV - TRANSFER AND LEASE OF PLACEMENT QUOTA**

### **Application for Transfer of Placement Quota**

12. (1) Placement Quota may only be Transferred upon application by the Transferor to, and with the written approval of, the Commission.
- (2) Applications for Transfer of Placement Quota must be accompanied by:
  - (a) an administration fee of \$250.00 payable by the applicant to the Commission;
  - (b) a letter from the applicant's Hatchery releasing the applicant from any outstanding accounts with the Hatchery.
- (3) Where the Commission incurs legal or other professional expenses in connection with the processing of an application for Transfer, such expenses may be charged to the applicant as a condition of approval of the application by the Commission.
- (4) Applications for Transfer of Placement Quota made within six months of an approved Transfer of Placement Quota are not subject to payment of additional administration fees or additional legal or other professional expenses incurred by the Commission in connection with the processing of such applications.

### **Limitations on Transfer of Placement Quota**

13. (1) The Commission may refuse to approve a Transfer of Placement Quota where:
  - (a) The Transferor or Transferee is not in compliance with the Orders of the Commission from time to time in force and all applicable legislation and regulations; or
  - (b) The Transferee is an individual who is under the age of nineteen years, or a corporation controlled by any individuals under the age of nineteen years, or a partnership with respect to which any individual member is under the age of nineteen years.
- (2) Unless the Commission otherwise consents in writing, no Producer may Transfer Placement Quota by way of a Permissible Lease within two years from the date that such Producer last Transferred Placement Quota by way of a Permissible Lease.
- (3) The Commission may require a Transferee of Placement Quota to be interviewed by the Commission.

- (4) The Commission may impose conditions with respect to any approval of a Transfer of Placement Quota.
- (5) The Commission may suspend the approval of Transfers for a definite or indefinite period of time.

#### **Deemed Transfer of Placement Quota**

- 14. (1) A Transfer of Placement Quota allotted to a partnership is deemed to occur when a partnership interest is transferred.
- (2) A Transfer of Placement Quota allotted to a corporation is deemed to occur when:
  - (a) The shares of that corporation are transferred;
  - (b) An interest in the shares of that corporation is transferred;
  - (c) Additional shares of that corporation are issued resulting in a change in the proportion of shares held by each shareholder; or
  - (d) Existing shares of that corporation are redeemed resulting in a change in the proportion of shares held by each shareholder.

#### **Surrender of Placement Quota on Transfer**

- 15. (1) Subject to subsection (5), where Placement Quota is Transferred other than by way of a Permissible Lease, the Transferor shall surrender to the Commission an amount of Placement Quota calculated as follows:
  - (a) 5% of the amount of Placement Quota being Transferred, where such Total Production Quota was:
    - (i) allotted pursuant to a Special Allotment to the Transferor prior to April 1, 2006; or
    - (ii) allotted to the Transferor other than pursuant to a Special Allotment;
  - (b) 100% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within one year from the date of the proposed Transfer;
  - (c) 90% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within the second year preceding the date of the proposed Transfer;

- (d) 80% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within the third year preceding the date of the proposed Transfer;
  - (e) 70% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within the fourth year preceding the date of the proposed Transfer;
  - (f) 60% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within the fifth year preceding the date of the proposed Transfer;
  - (g) 50% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within the sixth year preceding the date of the proposed Transfer;
  - (h) 40% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within the seventh year preceding the date of the proposed Transfer;
  - (i) 30% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within the eight year preceding the date of the proposed Transfer;
  - (j) 20% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within the ninth year preceding the date of the proposed Transfer;
  - (k) 10% of the amount of Placement Quota being Transferred, where such Placement Quota was allotted pursuant to a Special Allotment to the Transferor on or after April 1, 2006, and within, or prior to, the tenth year preceding the date of the proposed Transfer.
- (2) For the purposes of subsection (1), the Placement Quota being Transferred is deemed to be the Placement Quota most recently allotted to the Transferor.
- (3) Where the interest of a Producer in a partnership is increased, decreased or transferred, a proportionate Transfer of the Placement Quota deemed to have been allotted to such Producer is deemed to occur.

- (4) Where the direct or indirect interest of an individual in a corporate Producer is increased, decreased or transferred, a proportionate Transfer of the Placement Quota deemed to have been allotted to such individual is deemed to occur.
- (5) A surrender of Placement Quota is not required where:
  - (a) Placement Quota is Transferred, or deemed to have been Transferred, to the Transferor's spouse, child, or child and the child's spouse;
  - (b) two or more Producers enter into an agreement of partnership and the partnership interest of each such Producer is proportionate to the Placement Quota registered in that Producer's name;
  - (c) the amount of Placement Quota deemed to have been allotted to a Producer having an interest in a partnership remains registered in that Producer's name upon dissolution of the partnership.

## **PART V - FLOCK PLACEMENT**

### **Official Flock Schedule**

16. (1) The Official Flock Schedule is available for inspection at the Office of the Commission during regular business hours, provided that the Commission may withhold information from the Official Flock Schedule that does not pertain to the Person requesting inspection.
- (2) Placements for each Producer in the first year of a Quota Period shall be 50% of that Producer's Placement Quota for that Quota Period.

### **Placement of Flocks by Hatcheries and Payment by Producers**

17. (1) Each Hatchery shall order and arrange for the placement of flocks of day-old broiler breeder pullets in accordance with the Official Flock Schedule.
- (2) Each Hatchery shall inform the Commission in writing of its chosen strain or strains of broiler breeders to be ordered and placed in accordance with the Official Flock Schedule.
- (3) Unless otherwise agreed in writing, every Producer shall pay for day-old broiler breeders ordered and arranged by a Hatchery within 30 days from the date of placement of such day-old broiler breeders.
- (4) Where a Producer has failed or refused to pay the full amount due (without deduction, set-off or abatement) for a flock of day-old broiler breeders ordered and arranged by a Hatchery on behalf of that Producer:
  - (i) within 30 days from the date of placement of that flock; or
  - (ii) within such other time as may have been agreed in writing between that Hatchery and that Producer with respect to that flock;the Hatchery may:
  - (iii) forthwith deduct and withhold from the total payable to such Producer amounts sufficient to pay for that flock; and
  - (iv) commencing 30 days prior to the date of placement of the next flock of day-old broiler breeders, deduct and withhold from the total payable to such Producer amounts sufficient to pay for that next flock.

### **Growing of Pullets**

18. (1) All Producers must grow their own broiler breeder pullets on their own Independent Production Unit unless the Commission otherwise approves in writing.
- (2) Every Producer who grows their own broiler breeder pullets at a location other than their own Independent Production Unit must ensure that the growing of those broiler breeder pullets is consistent with all applicable standards.

## **PART VI - PRODUCTION REQUIREMENTS AND LIMITATIONS**

### **Over Quota Placements**

19. Where a Producer has placed a quantity of broiler breeders pullets in a Quota Period in excess of the Placement Quota allotted to that Producer, the Producer is liable to pay to the Commission an over placement levy as may be fixed and imposed by the Commission from time to time.

### **Under Quota Placements**

20. Where the Placement Quota allotted to a Producer exceeds the quantity of broiler breeders pullets placed by that Producer in a Quota Period, the Producer is liable to pay to the Commission an under placement levy as may be fixed and imposed by the Commission from time to time.

### **Operational Standards**

21. Every Hatchery, Producer and Transporter shall carry on operations in accordance with the Supplemental Standards set out in Schedule 6.

### **Acceptance of First Broiler Hatching Eggs Produced by a Flock**

22. No Hatchery shall refuse to accept the first broiler hatching eggs produced by a breeder flock provided that:
- (a) such first broiler hatching eggs are not more than 7 days old and are available in quantities of not less than 720 broiler hatching eggs;
  - (b) all such broiler hatching eggs weigh at least 52 grams each; and
  - (c) each flock's eggs are packaged and labeled separately.

### **Marketing of Broiler Hatching Eggs**

23. (1) Subject to subsections (2) and (3), no Producer shall market broiler hatching eggs other than:
- (a) through the Commission;
  - (b) to a Hatchery;
  - (c) to a breaker; or
  - (d) as may otherwise be directed by the Commission.
- (2) Every Producer must market through the Commission all Breaker Quality Eggs.

- (3) Every Producer must destroy all Unmarketable Eggs. No such Unmarketable Eggs shall be marketed, through the Commission or otherwise.
- (4) After giving a Person an opportunity to be heard, the Commission may impose terms and conditions with respect to the marketing of a regulated product and may suspend or cancel the licence held by, or Placement Quota allotted to, a Person if that Person has failed to comply with subsections (1), (2) or (3).
- (5) Where a licence and/or Placement Quota has been suspended for a definite period by reason of a failure to comply with subsections (1), (2) or (3), and that failure to comply has not been rectified within the period of suspension and continues, the Commission may forthwith cancel the licence and/or all or any part of the Placement Quota allotted to that Person.
- (6) Before the Commission imposes terms and conditions with respect to the marketing of a regulated product or suspends or cancels the licence held by, or Placement Quota allotted to, a Person, the Commission shall consider the following:
  - (a) previous enforcement actions for contraventions of a similar nature by the Person;
  - (b) the gravity and magnitude of the contravention;
  - (c) the extent of the harm to others resulting from the contravention;
  - (d) whether the contravention was repeated or continuous;
  - (e) whether the contravention was deliberate;
  - (f) any economic benefit derived by the Person from the contravention; and
  - (g) the Person's efforts to correct the contravention.

## **Fowl**

24. (1) Every Producer shall market their broiler breeder flocks as directed by the Commission, and subject to:
  - (a) any extraordinary kill age as may be directed by the Commission, after consultation with the Hatchery, where:
    - (i) a broiler breeder flock has failed to produce broiler hatching eggs with a consistent Hatchability of 70%; or
    - (ii) there are other extraordinary circumstances warranting an extraordinary kill age.

- (b) any extraordinary kill age as may be directed by the Producer, after consultation with the Hatchery, where a broiler breeder flock has failed to produce at levels acceptable to that Producer.
- (2) In exercising its discretion under paragraph (1)(a), the Commission will have regard to:
  - (a) the extent to which Hatchability has fallen below 70%;
  - (b) the Hatchability trend;
  - (c) whether or not there is a reasonable prospect that the broiler breeder flock will produce broiler hatching eggs with a consistent Hatchability of 70% in the future; and
  - (d) the presence of any other extraordinary circumstances warranting an extraordinary kill age.
- (3) All Fowl shipped from a Producer's Farm to a Processor shall be weighed by the Processor before 10:00 a.m. on the date of delivery.
- (4) Every Hatchery or Processor, as the case may be, shall provide to the affected Producer a minimum of two weeks' advance notice of any kill of Fowl.

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## **PART VII - PRICES AND METHOD OF PAYMENT**

### **Payment of Base Price for Broiler Hatching Eggs**

25. Every Hatchery shall pay for broiler hatching eggs at the base price set out in Schedule 2, provided that a reasonable surcharge may be imposed by a Hatchery to recover additional costs actually incurred by the Hatchery as a direct consequence of having to pick up broiler hatching eggs from a Producer who keeps less than 12,000 broiler breeders per Quota Period.

### **Time of Payment for Broiler Hatching Eggs**

26. (1) Every Hatchery shall pick up broiler hatching eggs from each Producer designated to it at least twice weekly.
- (2) Payment shall be made to each Producer by each Hatchery within 30 days from the date that such broiler hatching eggs are picked up by the Hatchery.

### **Authorized Withholdings**

27. Where a Producer has failed or refused to pay for a flock of day-old broiler breeders ordered and arranged by a Hatchery on behalf of that Producer within 30 days from the date of placement of that previous flock, or within such other time as may have been agreed in writing between that Hatchery and that Producer with respect to that flock, the Hatchery may withhold the amount so due from any payments due to that Producer by that Hatchery.

### **Payment of Base Price for Chicks Under 2 Days Old**

28. Every Grower shall pay for chicks under 2 days old hatched from broiler hatching eggs at the base price set out in Schedule 2.

### **Payment of Base Price for Fowl**

29. Every Processor shall pay for Fowl at the base price set out in Schedule 2 within 10 days from the date of kill.

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## **PART VIII - LEVIES**

### **Producer Levies**

30. Levies are fixed and imposed on each Producer as set out in Schedule 3, irrespective of whether any such Producer has been allotted Placement Quota or is the holder of a valid licence issued by the Commission.

### **Hatchery Responsibility Regarding Producer Levies**

31. (1) Each Hatchery, before making payments to a Producer, shall deduct from the total payable to such Producer the amount of levies assessed against the Producer under Schedule 3, and shall within 30 days of receipt of broiler hatching eggs from that Producer, remit the amount so deducted to the Commission.
- (2) In the event levies so assessed against a Producer are greater than the total amount payable to the Producer by the Hatchery, the deficient levy amount shall be added to subsequent levy assessments, and the Hatchery shall deduct from subsequent payments to that Producer the aggregate amount of such levies assessed against that Producer, and shall forthwith thereafter remit the amount so deducted to the Commission.
- (3) Should any Hatchery:
- (a) fail to deduct from amounts payable to a Producer the levies assessed against that Producer under Schedule 3; or
  - (b) fail to remit such levies to the Commission;
- then at the Commission's direction, any other Hatchery who has received regulated product from the defaulting Hatchery shall deduct from the payment due to the defaulting Hatchery the levies due to the Commission and shall immediately remit such levies to the Commission.

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## PART IX - REPORTING AND INSPECTION

### Hatchery Reporting to Commission

32. (1) Every Hatchery shall, on or before the 5<sup>th</sup> day of the next Reporting Period, furnish the Commission with a true and detailed report disclosing:
- (a) the name and address of each Producer from whom the Hatchery received broiler hatching eggs;
  - (b) the number of broiler hatching eggs received from each Producer;
  - (c) the number of saleable chicks derived from broiler hatching eggs received from each Producer;
  - (d) the number of broiler hatching eggs received from other than Registered Producers;
  - (e) the number of saleable chicks derived from broiler hatching eggs received from other than Registered Producers;
  - (f) the amount of levies deducted from amounts payable by the Hatchery to each Producer;
  - (g) the amount of levies remitted by the Hatchery with respect to broiler hatching eggs received from other than Registered Producers;
- (2) Every Hatchery shall complete and forward weekly to the Commission the "B.C. Broiler Hatching Egg Market Summary".
- (3) Every Hatchery shall notify the Commission of its intention to sell chicks to a Grower not then purchasing chicks from that Hatchery at least 16 weeks before commencing selling chicks to that Grower.
- (4) Every Hatchery shall complete and forward to each Producer, at the conclusion of each hatch, a hatch report in a form approved by the Commission.

### Processor Reporting to Commission

33. Every Processor shall, on or before the 5th day of the next Reporting Period, furnish the Commission with a true and detailed report disclosing:
- (a) the name and address of each Producer from whom the Processor received Fowl; and
  - (b) the number of Fowl received from each Producer and the date of slaughter.

### **Books, Records and Accounts**

34. (1) Every Hatchery, Processor and Producer shall keep complete and accurate books, records and accounts of all matters relating to the production, transportation, packing, storage and marketing of broiler hatching eggs, saleable chicks or broiler breeders.
- (2) All books, records and accounts required to be kept under subsection (1) must be retained for a period of three years and shall be available for inspection by:
- (a) the Commission;
  - (b) any officer or auditor of the Commission; and
  - (c) any other Person as may be authorized by the Commission from time to time to make an inquiry, report or corrective action request.

### **Licensees to Furnish Information and Permit Inspection**

35. (1) Every Person licensed by the Commission shall, upon request, furnish to the Commission, or to any officer or auditor of the Commission, or to any other Person as may be authorized by the Commission from time to time to make an inquiry, report or corrective action request, any information or documentation relating to the production, transportation, packing, storage and marketing of broiler hatching eggs, saleable chicks or broiler breeders.
- (2) Every Person licensed by the Commission shall make specific answers to any questions submitted to that Person by the Commission, or by any officer or auditor of the Commission, or by any other Person as may be authorized by the Commission from time to time to make an inquiry, report or corrective action request.
- (3) Every Person licensed by the Commission shall permit the Commission, or any officer or auditor of the Commission, or any other Person as may be authorized by the Commission from time to time to make an inquiry, report or corrective action request, to search vehicles in which the regulated product is transported, and to inspect all Farm or business premises owned, occupied or controlled by such licensed Person.

## PART X - PROHIBITIONS

### Producer

36. No Producer shall engage in the production, transportation, packing, storage and marketing of broiler hatching eggs, saleable chicks or broiler breeders unless the Producer:
- (a) is the holder of a valid and subsisting licence issued by the Commission; and
  - (b) has an allotment of Placement Quota in accordance with the Orders of the Commission.

### Hatchery

37. (1) No Hatchery shall receive regulated product from a Producer:
- (a) who is not the holder of a valid and subsisting licence issued by the Commission; and
  - (b) who does not have an allotment of Placement Quota in accordance with the Orders of the Commission.
- (2) No Hatchery shall receive regulated product from a Transporter or a Processor who is not the holder of a valid and subsisting licence of the appropriate class issued by the Commission.

### Processor

38. (1) No Processor shall receive regulated product from a Producer:
- (a) who is not the holder of a valid and subsisting licence issued by the Commission; and
  - (b) who does not have an allotment of Placement Quota in accordance with the Orders of the Commission.
- (2) No Processor shall receive regulated product from a Transporter or a Hatchery who is not the holder of a valid and subsisting licence of the appropriate class issued by the Commission.

**Transporter**

39. (1) No Transporter shall receive regulated product from a Producer:
- (a) who is not the holder of a valid and subsisting licence issued by the Commission; and
  - (b) who does not have an allotment of Placement Quota in accordance with the Orders of the Commission.
- (2) No Transporter shall receive regulated product from a Hatchery or a Processor who is not the holder of a valid and subsisting licence of the appropriate class issued by the Commission.

## PART XI - COMPLIANCE

### Suspension or Cancellation

40. (1) In addition to any other remedies available to the Commission in respect of a contravention of an Order of the Commission, the *Natural Products Marketing (BC) Act*, R.S.B.C. 1996, c. 330, the *British Columbia Broiler Hatching Egg Scheme* (B.C. Reg. 432/88), or other applicable legislation and regulations, the Commission may suspend or cancel the licence held by, or Placement Quota allotted to, a Person determined by the Commission to be in contravention.
- (2) Where a licence has been suspended for a definite period for a contravention and that contravention has not been rectified within the period of suspension and the contravention continues, the Commission may forthwith cancel the licence.

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## PART XII - PRICING AND PRODUCTION ADVISORY COMMITTEE

### Committee

41. The Pricing and Production Advisory Committee is hereby continued and is composed of:
- (a) 3 voting Registered Producer representatives (who are not Members of the Commission) appointed by the Commission after consultation with the British Columbia Broiler Hatching Egg Producers Association;
  - (b) 3 voting Hatchery representatives appointed by the Commission after consultation with the British Columbia Egg Hatchery Association;
  - (c) 1 voting member (who is not a Registered Producer, a Hatchery representative, a Grower representative or a Member of the Commission) appointed by the Commission to serve as the Chairperson of the Committee;
  - (d) 1 non-voting observer (who is a Member of the Commission) appointed by the Commission; and
  - (e) 1 *ad hoc*, voting Grower representative appointed by the Commission after consultation with the British Columbia Chicken Marketing Board, who:
    - (i) shall attend at, be privy to, and participate in, only those portions of Committee meetings that concern pricing decisions that the Commission has made or may make and which relate specifically to:
      - A. the base price for broiler hatching eggs set out in Schedule 2; or
      - B. the mechanism by which the base price for broiler hatching eggs is established;
    - (ii) shall not attend at, be privy to, or participate in, any portion of Committee meetings that concern a dispute between a Hatchery and a Producer that has been referred to the Committee in accordance with Schedule 6 to the Consolidated Order.

### **Appointment of Members**

42. All appointments to the Committee:
- (a) shall be communicated by the Commission in writing to the Person or representative so appointed; and
  - (b) shall be held at the pleasure of the Commission.

### **Duties of the Committee**

43. (1) The Committee shall advise the Commission, upon the request of the Commission, or upon the initiative of the Committee, concerning any matter relating to the pricing or production decisions the Commission has made or may make.
- (2) Without limiting the generality of subsection (1), the Committee shall provide a recommendation to the Commission where it has considered a dispute between a Hatchery and a Producer that has been referred to it in accordance with Schedule 6 to the Consolidated Order.

### **Manner of Providing Advice**

44. (1) The Committee shall endeavour to provide advice to the Commission in the form of a written unanimous recommendation.
- (2) Where the Committee is unable to formulate a unanimous recommendation, the Chairperson of the Committee shall provide to the Commission a written position report detailing the majority and minority positions of the Committee members, and the number of votes cast in favour of each such position.

### **Time**

45. Where the Commission has requested the advice of the Committee, the Committee shall provide its advice, whether by way of a written unanimous recommendation or by way of a written position report, within such period of time as the Commission may request.

**PART XIII - MISCELLANEOUS**

**Conflict of Interest**

46. Members of the Commission shall conduct themselves in a manner consistent with the Conflict of Interest Rules set out in Schedule 4.

**Revocation and Transition**

47. This Consolidated Order supersedes and replaces all Orders made by the Commission prior to the effective date hereof and all such prior Orders are hereby revoked, but such revocation shall not affect any contraventions committed or any penalties incurred under the Orders so revoked.

**Commencement**

48. This Consolidated Order comes into effect on September 6, 2009.

DATED AT ABBOTSFORD, BRITISH COLUMBIA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION

\_\_\_\_\_  
Peter Whitlock - Chair

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**SCHEDULE 1  
TO THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION  
CONSOLIDATED ORDER**

**New Producer Program Rules**

**Definitions**

1. In these Rules:

“**Spouse**” means a partner in a marriage, or a Person with whom there has been cohabitation in a conjugal relationship, having so cohabitated for a continuous period of at least one year.

**Application Under New Producer Program**

2. (1) A Person may apply to participate in the New Producer Program only when the Commission has announced on its website that a lottery will be conducted for the purpose of selecting applicants to fill unoccupied places on the prospective producer list hereunder.
- (2) Applications to participate in the New Producer Program are made by filing with the Commission:
  - (a) an application form, obtainable from the Commission, duly completed by the applicant;
  - (b) a copy of the applicant’s birth certificate or other proof of age acceptable to the Commission;
  - (c) proof of Canadian citizenship or permanent resident status;
  - (d) proof of permanent residence status in the Province of British Columbia; and
  - (e) a non-refundable application fee of \$250.00, payable to the Commission by way of cheque.
- (3) Spouses may submit a joint application, but no more than one application may be submitted by both Spouses, or either of them.
- (4) An applicant for the New Producer Program may be a partnership in which case each partner must qualify under subsection (5).
- (5) A Person seeking to participate in the New Producer Program must have the following qualifications:
  - (a) a genuine intention to be actively engaged in broiler hatching egg production;

- (b) be a Canadian citizen or permanent resident of Canada;
- (c) be a permanent resident in the Province of British Columbia;
- (d) be at least 19 years of age at the time of application; and
- (e) neither the applicant, nor the Spouse of the applicant, nor any co-applicant, may have, or have had at any time, any financial interest in quota or any similar transferable production right issued or allotted by a supply management commodity board or commission in British Columbia, including Placement Quota, whether directly or indirectly, through any organization or entity.

### **Prospective Producer List**

- 3. (1) The first five eligible applicants on the prospective producer list under the New Producer Program as it existed prior to April 1, 2006 are deemed to be on the prospective producer list hereunder, and the order in which such applicants were placed on that previous prospective producer list is unchanged.
- (2) When there are three or less eligible applicants on the prospective producer list, the Commission will arrange for an independent third party to conduct a lottery for the purpose of selecting eligible applicants to fill the unoccupied places on the prospective producer list.
- (3) Where an applicant is in breach of Commission Orders, or applicable legislation, that applicant will not be eligible to participate in the lottery and will not be placed on the prospective producer list.
- (4) Positions on the prospective producer list are:
  - (a) non-transferable, under any circumstances; and
  - (b) not available to be pledged as security.
- (5) Persons on the prospective producer list may have their applications rejected and their prospective producer list position cancelled for any of the following:
  - (a) breach of Commission Orders or applicable legislation;
  - (b) making false statements on the application form;
  - (c) changes in circumstances such that an applicant no longer qualifies under the New Producer Program;
  - (d) changes in legislation adversely affecting the New Producer Program;  
or

- (e) an NSF cheque for the application fee.

### **Entry in Program**

- 4. (1) The Commission will maintain a new producer allocation pool. All Placement Quota surrendered pursuant to the transfer assessment provisions of the Commission's Consolidated Order will be allocated to that pool by the Commission for the purpose of issuing Placement Quota under the New Producer Program.
- (2) When the new producer allocation pool contains 5,000 broiler breeder pullets of Placement Quota not already assigned by the Commission for the issuance of Placement Quota under the New Producer Program, the Commission will invite one applicant to enter the New Producer Program.
- (3) Where an applicant from the prospective producer list is invited by the Commission to become an entrant to the New Producer Program, the applicant shall submit to the Commission, within 60 days from the date of such invitation:
  - (a) proof, in a form satisfactory to the Commission, of the applicant's financial ability to establish an acceptable Independent Production Unit for the production of broiler hatching eggs; and
  - (b) proof, in a form satisfactory to the Commission, that the applicant has economically viable plans to sustain the production of broiler hatching eggs;
  - (c) proof, in a form satisfactory to the Commission, that the applicant will be able to establish an acceptable Independent Production Unit for the production of broiler hatching eggs within one year from the date of the invitation to become an entrant to the New Producer Program;
  - (d) proof, in a form satisfactory to the Commission, that the applicant's Independent Production Unit will be within economic access of a licensed Hatchery; and
  - (e) any other information deemed necessary by the Commission.
- (4) An applicant who has complied with subsection (3) to the satisfaction of the Commission will be issued 5,000 broiler breeder pullets of Placement Quota when the acceptable Independent Production Unit has been established.

### **Special Restrictions on Placement Quota Issued Under the Program**

5. (1) Placement Quota issued under the New Producer Program may be held for production by the entrant only for so long as the entrant:
- (a) permits Commission audits of the farm operation to ensure compliance with Commission orders and all applicable legislation, including all terms and conditions of the New Producer Program;
  - (b) is in good standing with all applicable Commission orders and all applicable legislation, including all terms and conditions of the New Producer Program; and
  - (c) is actively engaged in broiler hatching egg production;
- failing which the Placement Quota so allotted shall thereupon be subject to immediate cancellation on notice by the Commission to the entrant.

### **Purchase or Acquisition of Additional Placement Quota**

6. (1) An entrant may purchase or acquire Placement Quota.
- (2) Entrants under the New Producer Program are eligible to receive general allotments of new Placement Quota and are subject to general adjustments or reductions of Placement Quota, and for that purpose, such receipts, adjustments or reductions shall be calculated against the Placement Quota then allotted to the entrant.

### **Determination as to Whether the Entrant is Actively Engaged in Broiler Hatching Egg Production**

7. (1) The Commission will determine, in its sole discretion, whether an entrant is actively engaged in broiler hatching egg production for the purposes of the New Producer Program. Without limiting the generality of the foregoing, the Commission will have regard to the following factors:
- (a) whether the Placement Quota allotted under the New Producer Program is being used for the benefit of the entrant;
  - (b) whether the entrant is active in the day-to-day affairs of the Independent Production Unit, including matters of animal husbandry;
  - (c) whether the entrant operates and controls the Independent Production Unit;
  - (d) whether the entrant owns, leases or rents the Independent Production Unit;

- (e) whether the entrant pays for feed and other farm supplies utilized on the Independent Production Unit; and
  - (f) whether the entrant enjoys the chance of profit and bears the risk of loss in relation to the operations of the Independent Production Unit.
- (2) For the purpose of determining whether the entrant is actively engaged in the production of broiler hatching eggs, the Commission shall have regard to the substance and effect of any arrangement made between the entrant and any other Person, irrespective of the form of that arrangement.
  - (3) Where it appears to the Commission that the entrant is primarily engaged in the business of administering Placement Quota allotted under the New Producer Program, and that some other Person is primarily engaged in the business of broiler hatching egg production associated with that Placement Quota, the entrant shall be deemed not to be actively engaged in broiler hatching egg production.

#### **Changes to the New Producer Program**

- 8. (1) Applicants on the prospective producer list and entrants under the New Producer Program are subject to all changes that the Commission may make from time to time to the terms and conditions of the New Producer Program.
- (2) Notwithstanding subsection (1), the Commission may, in its sole discretion, provide to an entrant a written exemption from any term or condition of the New Producer Program that has come into effect after the entrant's entry into the New Producer Program, in which event the entrant shall continue to be governed by the terms and conditions of the New Producer Program as they existed at the time of the entrant's entry into the New Producer Program except insofar as those terms and conditions may conflict with any subsequent term or condition for which a written exemption had not been granted.

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**SCHEDULE 2  
TO THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION  
CONSOLIDATED ORDER**

**Prices**

**Broiler Hatching Eggs**

1. (1) For Period A93 the base price to be paid by Hatcheries to Producers for broiler hatching eggs is \$0.5153 per saleable chick.
- (2) The listed price for broiler hatching eggs is \$4.95 per dozen.
- (3) The base price for broiler hatching eggs is F.A.S. the Producer's Farm.

**Chicks Under 2 Days Old**

2. (1) For Period A93 the base price to be paid by Growers to Hatcheries for day-old saleable chicks hatched from broiler hatching eggs (exclusive of any charges that may be imposed by the Hatchery for vaccination or sexing services requested by the Grower) is \$0.6847 per day-old saleable chick.
- (2) Notwithstanding subsection (1), Hatcheries may, at their discretion, provide to Growers chicks under 2 days old at no cost in addition to the number of chicks under 2 days old invoiced per flock placement.
- (3) The base price for chicks under 2 days old hatched from broiler hatching eggs is F.A.S. the Grower's Farm.

**Fowl**

3. (1) The base price to be paid by Processors to Producers for Fowl is:
  - (a) \$0.30 per kilogram live weight for broiler breeder hens; and
  - (b) \$0.00 per kilogram live weight for broiler breeder stags.
- (2) For Fowl not weighed by the Processor before 10:00 a.m. on the date of delivery, the amount of \$0.02 per kilogram live weight shall be added to the base price for each of broiler breeder hens and broiler breeder stags.
- (3) The base price for Fowl is F.A.S. the Producer's Farm.

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**SCHEDULE 3  
TO THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION  
CONSOLIDATED ORDER**

**Levies**

**Producer Levies**

1. Levies are fixed and imposed upon each Producer as follows:
  - (a) National Agency Levy at a rate of \$0.0288 per dozen broiler hatching eggs received by a Hatchery;
  - (b) Administration Levy at a rate of \$0.1712 per dozen broiler hatching eggs received by a Hatchery;

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**SCHEDULE 4  
TO THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION  
CONSOLIDATED ORDER**

**Conflict of Interest Rules**

**Conflict of Interest**

1. For the purposes of these Rules, a Member has a conflict of interest when the Member exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that in the performance of the duty or function or in the exercise of the power there is the opportunity to further his or her Private Interest.

**Apparent Conflict of Interest**

2. For the purposes of these Rules, a Member has an apparent conflict of interest when there is a reasonable perception, which a reasonably well informed person could properly have, that the Member's ability to exercise an official power or perform an official duty or function must have been affected by his or her Private Interest.

**Conflict of Interest Prohibition**

3. A Member shall not exercise an official power or perform an official duty or function if the Member has a conflict of interest or an apparent conflict of interest.

**Insider Information**

4. A Member shall not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the Member's Private Interest.

**Influence**

5. A Member shall not use his or her office to seek to influence a decision, to be made by another person, to further the Member's Private Interest.

**Procedure on Conflict of Interest**

6. (1) A Member who has reasonable grounds to believe that he or she has a conflict of interest or an apparent conflict of interest in a matter that is before the Commission shall:

- (a) if present at a meeting considering the matter:
  - (i) disclose the general nature of the conflict of interest or apparent conflict of interest; and
  - (ii) withdraw from the meeting without voting or participating in the consideration of the matter;
- (b) if not present at a meeting considering the matter, forthwith disclose in writing to the Commission the general nature of the conflict of interest or apparent conflict of interest.
- (3) Where a Member has complied with subsection (1), the secretary of the meeting shall record:
  - (a) the disclosure;
  - (b) the general nature of the conflict of interest or apparent conflict of interest; and
  - (c) the withdrawal of the Member from the meeting.

### **Disclosure Statement**

- 7. (1) Every Member must, prior to the first meeting of the Commission following the date that such Member was elected, and thereafter within 30 days of January 1 of each calendar year, file with the Commission a disclosure statement in the form prescribed by the Commission.
- (2) The disclosure statement must contain:
  - (a) the name of every company in which ten percent (10%) or more of the issued shares are held, directly or indirectly, by the Member, the Member's spouse or minor children, or any trustee or nominee on their behalf, together with a brief description of the business carried on by each such company;
  - (b) the name of every non-corporate business enterprise from which, directly or indirectly, the Member, the Member's spouse or minor children receive income, together with a brief description of the business carried on by each such non-corporate business enterprise; and

- (c) the name of every company or organization with respect to which the Member is an officer, director, elected official or appointed official.
- (3) After filing a disclosure statement, a Member must continue to disclose any material changes to the information recorded thereon by promptly filing with the Commission a revised disclosure statement.

### **Accepting Extra Benefits**

8. (1) A Member shall not accept a gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.
- (2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.
- (3) Where a gift or personal benefit referred to in subsection (2) exceeds \$250.00 in value, or where the total value received directly or indirectly from one source in any 12 month period exceeds \$250.00, the Member shall immediately disclose:
- (a) the nature of the gift or personal benefit;
  - (b) its source; and
  - (c) the circumstances under which it was given and accepted.

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**SCHEDULE 5  
TO THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION  
CONSOLIDATED ORDER**

**Biosecurity, Food Safety and Code of Practice**

**Incorporation by Reference**

1. The following are adopted and incorporated by reference into this Schedule:
  - (a) The B.C. Poultry Biosecurity Program published by the B.C Poultry Association on April 17, 2007;
  - (b) The Canadian Broiler Hatching Egg Producers Association's *Canadian Hatching Egg Quality™ Producer Manual* (the HACCP-based on-farm food safety program for hatching egg producers); and
  - (c) The Canadian Agri-Food Research Council's *Recommended code of practice for the care and handling of farm animals – Chickens, Turkeys and Breeders from Hatchery to Processing Plant*;

(collectively, the "Programs").

**Compliance with Programs**

2. Every Producer shall comply with the codes, standards, rules and requirements contained in the Programs.

**On Farm Program Coordinator**

3.
  - (1) The Commission may designate a Person to act as the On Farm Program Coordinator for the purpose of assisting in the administration of the Programs.
  - (2) A Person designated by the Commission to act as the On Farm Program Coordinator is authorized to exercise the following delegated powers of the Commission:
    - (a) the power to inspect a Producer's books, records and accounts relating to the production, transportation, packing, storage and marketing of broiler hatching eggs, saleable chicks or broiler breeders, for the purpose of assessing the degree of compliance with the Programs;
    - (b) the power to request that any Person licensed by the Commission furnish information or documentation relating to the production, transportation, packing, storage and marketing of broiler hatching eggs, saleable chicks or broiler breeders, for the purpose of assessing the degree of compliance with the Programs;

- (c) the power to request that any Person licensed by the Commission make specific answers to any questions submitted to that Person, for the purpose of assessing the degree of compliance with the Programs;
- (d) the power to search vehicles in which the regulated product is transported, and to inspect all Farm or business premises owned, occupied or controlled by any Person licensed by the Commission, for the purpose of assessing the degree of compliance with the Programs; and
- (e) the power to issue a corrective action request in relation to any matter noted by the On Farm Program Coordinator as being non-compliant with the Programs.

#### **Referral to B.C. Poultry Biosecurity Committee**

- 4. (1) Where a Person has failed to comply with a corrective action request issued by the On Farm Program Coordinator, the Commission may seek a non-binding recommendation from the B.C. Poultry Biosecurity Committee.
- (2) Without limiting the generality of subsection (1), the Commission may seek a non-binding recommendation from the B.C. Poultry Biosecurity Committee concerning any or all of the following matters:
  - (a) the propriety of the On Farm Program Coordinator's interpretation of the Programs; and
  - (b) the reasonableness of a corrective action request issued by the On Farm Program Coordinator.

#### **Suspension and Cancellation**

- 5. (1) After giving a Person an opportunity to be heard, the Commission may impose terms and conditions with respect to the marketing of a regulated product and may suspend or cancel the licence held by, or Placement Quota allotted to, a Person if that Person has failed to comply with a corrective action request issued by the On Farm Program Coordinator.
- (2) Where a licence and/or Placement Quota has been suspended for a definite period by reason of a failure to comply with a corrective action request issued by the On Farm Program Coordinator, and that failure to comply has not been rectified within the period of suspension and continues, the Commission may forthwith cancel the licence and/or all or any part of the Placement Quota allotted to that Person.

- (3) The Commission may set and collect a charge or series of charges against a Person who has failed to comply with a corrective action request issued by the On Farm Program Coordinator to recover the expenses incurred by the Commission in connection with the imposition of terms and conditions with respect to the marketing of a regulated product, and/or the suspension or cancellation of the licence held by, or Placement Quota allotted to, a Person.
- (4) Before the Commission imposes terms and conditions with respect to the marketing of a regulated product, or suspends or cancels the licence held by, or Placement Quota allotted to, a Person, or sets a charge or series of charges against a Person, the Commission shall consider the following:
  - (a) previous enforcement actions for contraventions of a similar nature by the Person;
  - (b) the gravity and magnitude of the contravention;
  - (c) the extent of the harm to others resulting from the contravention;
  - (d) whether the contravention was repeated or continuous;
  - (e) whether the contravention was deliberate;
  - (f) any economic benefit derived by the Person from the contravention;  
and
  - (g) the Person's efforts to correct the contravention.

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**SCHEDULE 6  
TO THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION  
CONSOLIDATED ORDER**

**Supplemental Standards**

**PART I - PRODUCTION UNIT STANDARDS**

**Egg Service Rooms**

1. Every Independent Production Unit shall have an Egg Service Room which shall be equipped with hot and cold running water.

**Egg Storage Rooms**

2. (1) Egg Storage Rooms shall:
  - (a) be large enough to accommodate one week's production of broiler hatching eggs and:
    - (i) packaging (buggies and trays) for four day's production of broiler hatching eggs; or
    - (ii) be of a minimum area equivalent to 2 square feet for every 100 birds in production.
  - (b) be equipped with an operational calibrated thermometer and humidistat;
  - (c) have a well maintained concrete or paved loading area; and
  - (d) be equipped with cooler doors and load-out doors having a minimum width of 4 feet.
- (2) Independent Production Units constructed after May 25, 1999 shall have no more than one Hatching Egg Storage Room.
- (3) Egg Storage Rooms constructed after October 1, 1999 shall be accessible by way of a loading dock or other loading apparatus suitable for the loading of broiler hatching eggs onto a vehicle that is not equipped with a hydraulic lift gate.
- (4) Independent Production Units constructed after February 2006 shall have a lockable exterior entrance to the Egg Storage Room.

## **PART II - PRODUCTION UNIT MANAGEMENT STANDARDS**

### **General**

3. (1) Producers shall use a Hatchery's packaging and egg buggies only for the purpose of packaging and storing broiler hatching eggs.
- (2) No Producer shall raise or manage on a Production Unit any species of poultry other than chickens (*Gallus domesticus*).
- (3) Except with prior notice to the Hatchery, no Producer shall place or maintain on an Independent Production Unit broiler breeders originating from another Producer's Independent Production Unit.

### **Pullets**

4. To ensure that:
  - (a) all pullet production facilities are inspected and meeting standards; and
  - (b) all placements are registered, for disease outbreak Response, with the Commission;

Producers must apply for a permit from the Commission to place broiler breeder pullets on a production facility other than their own at least 60 days before the projected placement date and prior to the setting of eggs at the hatchery for that parent flock. Changes in pullet flock placement, when necessary, will be accepted with prior notification to the Commission.

### **Breeder Flock Management**

5. (1) Producers:
  - (a) shall administer health and vaccination programs and re-vaccinations as may be prescribed by the flock veterinarian;
  - (b) shall remove all cull chicks when identified and all broiler roosters by 25 weeks of age;
  - (c) shall spike broiler breeder flocks with replacement roosters, of the same breed, when necessary to maintain or improve fertility rates;
  - (d) are encouraged to obtain the most recent test results from the Animal Health Monitoring laboratory on any or all replacement roosters;
  - (e) shall immediately report any significant drop in production or any indication of disease to the Hatchery;

- (f) shall provide the Hatchery with copies of any laboratory reports regarding any significant drop in production or any indication of disease; and
  - (g) shall properly maintain and keep clean all nest material.
- (2) The Commission may:
- (a) on its own initiative;
  - (b) upon the written request of a Producer; or
  - (c) upon the written request of a Hatchery;
- take samples of broiler hatching eggs from a Producer, a Hatchery, or both, for the purpose of testing broiler hatching egg fertility.

### **Egg Washing and Sanitation**

6. (1) Where broiler hatching eggs are washed, they shall be washed with clean water of approximately 40.5 degrees Celsius (105 degrees Fahrenheit), with a detergent approved for washing hatching eggs.
- (2) All floor, slat, and washed broiler hatching eggs shall be marked for identification so as to be distinguishable from unwashed broiler hatching eggs and placed in trays at the bottom of the buggies.

### **Egg Gathering, Storage and Packing**

7. (1) Cull Eggs shall be removed by Producers before packaging, such that no more than 1.0% of the total number of broiler hatching eggs in any Pick-Up shall be Cull Eggs.
- (2) All Cull Eggs identified by a Hatchery shall be made available to the originating Producer.
- (3) Where the Commission or its authorized delegate has verified that the number of Cull Eggs exceeds 1.0% of the total number of broiler hatching eggs in a Pick-Up, the receiving Hatchery may return that Pick-Up to the Producer for re-culling, and may forthwith deduct and withhold from the total payable to such Producer the lesser of the cost of transporting that Pick-Up back to the Producer, or \$400.00.
- (4) All broiler hatching eggs packaged by a Producer shall be:
- (a) of a minimum weight of 52 grams; and
  - (b) packaged with the point down.

- (5) No Producer shall make eggs available for pick-up while such eggs have been directed to be destroyed by the Producer's veterinarian or the Canadian Food Inspection Agency.
- (6) All small eggs (less than 52 grams) shall be packaged on Commission supplies and sold to the Commission.

### **PART III - HATCHERY AND TRANSPORTER STANDARDS**

#### **Transport**

- 8. (1) Transporters shall:
  - (a) maintain all vehicles used for the purpose of transporting broiler hatching eggs at the recommended storage temperatures for hatching eggs;
  - (b) clean and disinfect weekly all vehicles used for the purpose of transporting broiler hatching eggs; and
  - (c) firmly secure all buggies used for transporting broiler hatching eggs so as to minimize any damage to the eggs.

#### **Pullets**

- 9. Hatcheries shall correctly identify the pullet placement location (if different from the flock owner information) on the Hatchery Supply Flock Registration form.

#### **Setting**

- 10. Hatcheries shall place broiler hatching eggs in their incubators in a timely fashion and as soon after such broiler hatching eggs are laid as is reasonably possible.

### **PART IV – BREEDER STANDARDS**

#### **Broiler Breeder Hatching Eggs**

- 11. (1) Broiler breeder hatching eggs shall either:
  - (a) be produced from a grandparent flock that is not less than 32 weeks of age; or
  - (b) satisfy the weight requirements set out in subsection (2).

- (2) Where broiler breeder hatching eggs are produced from a grandparent flock that is less than 32 weeks of age:
  - (a) the Hatchery supplying such broiler breeder hatching eggs must individually weigh each broiler breeder hatching egg contained in one random sample flat for every six cases;
  - (b) 100% of the broiler breeder hatching eggs so weighed must weigh at least 52 grams; and
  - (c) the Hatchery must certify in writing the results of the weighing and provide such certification to the applicable Producer not later than 3 days following the date that the broiler breeder hatching eggs are set in the Hatchery's incubator.
- (3) Where broiler breeder hatching eggs produced from a grandparent flock that is less than 32 weeks of age do not satisfy the weight requirements set out in subsection (2), the Hatchery and the applicable Producer:
  - (a) must consult with each other with a view to arriving at mutually acceptable terms with respect to those broiler breeder hatching eggs; and
  - (b) may, if they are unable to arrive at mutually acceptable terms with respect to those broiler breeder hatching eggs, refer the resulting dispute to the Pricing and Production Advisory Committee in accordance with Part V of this Schedule.
- (4) Producers remain obligated to pay the full amount due (without deduction, set-off or abatement) for flocks of day-old broiler breeders ordered and arranged by a Hatchery, unless another arrangement results from:
  - (a) mutually acceptable terms arrived at between a Hatchery and the applicable Producer with respect to broiler breeder hatching eggs that do not satisfy the weight requirements set out in subsection (2);
  - (b) a recommendation made by the Pricing and Production Advisory Committee in accordance with Part V of this Schedule with respect to a resulting dispute, which recommendation has been duly accepted by the Commission; or
  - (c) any other order, decision or determination that may be made by the Commission with respect to a resulting dispute.

### **Broiler Breeder Chicks**

12. Day-old broiler breeder pullets should not have any one or more of the following characteristics: poor legs, skin tears, missing eye(s), crossed beak, unhealthy appearance, dirty or matted with hatch material, scabby navel, body lesion(s), or curled toes.

### **Genetics**

13. Every Producer must be provided with all available manuals and guidelines applicable to any new strain of day-old broiler breeder pullets provided to that Producer.
14. New strains of day-old broiler breeder pullets should not be placed unless there has first been consultation between the applicable Hatchery, the applicable Producer and the Commission.

## **PART V - DISPUTE RESOLUTION**

### **Discussion and Inspection**

15. Where a dispute arises between a Hatchery and a Producer concerning alleged non-compliance with the Standards:
  - (a) The Hatchery and the Producer shall make bona fide efforts to resolve all disputes by amicable discussions, and to meet, discuss in good faith and try to resolve disputes without litigation, controversy or claim, and to provide frank, candid and timely disclosure of all relevant facts to facilitate those discussions.
  - (b) The Commission may:
    - (i) on its own initiative;
    - (ii) upon the written request of a Producer; or
    - (iii) upon the written request of a Hatchery;arrange for an inspection to be conducted, with or without notice, for the purpose of assessing the degree of compliance or non-compliance with the Standards.

### **Referral to PPAC**

16. (1) Where a dispute between a Hatchery and a Producer concerning alleged non-compliance with the Standards cannot be resolved by amicable discussions, the Hatchery or the Producer, as the case may be, may refer the dispute to the Pricing and Production Advisory Committee by:

- (a) delivering to the Commission a written Request for Recommendation addressed to the Pricing and Production Advisory Committee; and
  - (b) delivering a copy of the written Request for Recommendation to all other parties whose interest is or may be affected by the dispute.
- (2) A written Request for Recommendation shall contain:
- (a) a detailed description of the alleged non-compliance with the Standards;
  - (b) a detailed description of the efforts made to resolve the dispute by amicable discussions, without revealing any communications of a privileged nature; and
  - (c) the nature of the recommendation sought by the applicant.
- (3) Within such time as the Pricing and Production Advisory Committee may direct, all other parties whose interest is or may be affected by the dispute may respond to the written Request for Recommendation by:
- (a) delivering to the Commission a written Response addressed to the Pricing and Production Advisory Committee; and
  - (b) delivering a copy of the written Response to the applicant.
- (4) A written Response shall contain:
- (a) a detailed description of the efforts made to resolve the dispute by amicable discussions, without revealing any communications of a privileged nature; and
  - (b) the nature of the recommendation sought by the respondent.
- (5) Within such time as the Pricing and Production Advisory Committee may direct, the applicant may reply to a written response by:
- (a) delivering to the Commission a written Reply addressed to the Pricing and Production Advisory Committee; and
  - (b) delivering a copy of the written Reply to each Respondent.
- (6) A written Reply shall be as brief as the circumstances may permit and shall address only those matters raised in the Response not already addressed in the written Request for Recommendation.

## Consideration by PPAC

17. (1) When considering a dispute concerning alleged non-compliance with the Standards, the Pricing and Production Advisory Committee:
  - (a) shall conduct itself in a manner consistent with the Conflict of Interest Rules contained in Schedule 4 to the Consolidated Order as if those Rules applied, mutatis mutandis, to the Pricing and Production Advisory Committee; and
  - (b) may have regard to any inspection report that had been prepared for the purpose of assessing the degree of compliance or non-compliance with the Standards.
- (2) In providing advice to the Commission concerning alleged non-compliance with the Standards, the Pricing and Production Advisory Committee may:
  - (a) recommend that no action be taken by the Commission on the basis that there has been no material deviation from the Standards;
  - (b) recommend that no action be taken by Commission on the basis that there has been no material impact from a deviation from the Standards;
  - (c) recommend that the Commission direct the Producer or Hatchery, as the case may be, to rectify any deviation from the Standards within such time as it considers appropriate;
  - (d) recommend that the Commission suspend the next placement until all Standards are met;
  - (e) recommend that Commission make an order, decision or determination concerning the pricing of regulated product, including an adjustment to price, as the Pricing and Production Advisory Committee may consider appropriate in the circumstances;
  - (f) recommend that Commission make an order, decision or determination concerning the production of regulated product, including a direction with respect to the kill age of any broiler breeder flock, as the Pricing and Production Advisory Committee may consider appropriate in the circumstances;
  - (g) make such other recommendations as the Pricing and Production Advisory Committee may consider appropriate in the circumstances.

**SCHEDULE 7  
TO THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION  
CONSOLIDATED ORDER**

**Rules and Procedures  
for the Election of Elected Commission Members<sup>1</sup>**

1. The Commission consists of a chair appointed by the Lieutenant Governor in Council and 4 members who are registered producers elected by registered producers.
2. The term of office of an elected member is 3 years from the election or until a successor is elected. The Commission will endeavour to sequence terms so that at least one member is elected each year.
3. The Commission will conduct an election in the month of May or June.
4. The Commission will appoint an independent returning officer to carry out the election and to certify the results. The independent returning officer will be a person who is independent of the hatching egg industry and of the Commission.
5. The Commission will at all times maintain a current and accurate Register of Producers (the "Register") identifying all persons entitled to vote. The Register will be open to inspection at all reasonable times at the Commission's head office.
6. Producers will be notified in writing if their name is to be removed from the Register and will be given the opportunity to appeal that determination to the Commission. All election Register appeals will be reviewed by the independent returning officer and if the independent returning officer determines that the person should continue to have the right to vote, the independent returning officer will recommend to the Commission that the producer's name be restored in the Register.
7. A registered producer will be conclusively deemed to have received a notice, ballot or other thing required to be mailed in respect of an election where it is mailed to the registered producer's last address registered with the Commission, and a failure to receive such notice, ballot or other thing does not invalidate the election.

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<sup>1</sup> At the request of the British Columbia Farm Industry Review Board, parts of these Rules and Procedures paraphrase certain provisions of the British Columbia Broiler Hatching Egg Scheme (B.C. Reg. 432/88) and the *Natural Products Marketing (BC) Act Regulations* (B.C. Reg. 328/75) (collectively, the "Regulations"). These provisions should be read in the context of the Regulations in which they appear. Further, the Regulations are subject to change from time to time. In the event of any conflict between the Regulations and these Rules and Procedures, the Regulations will govern. Persons who need to rely on the text of these Rules and Procedures for legal or other purposes should also review the Regulations.

8. Inadvertent omission to mail a notice, ballot or other thing required to be mailed in respect of an election does not invalidate the election.
9. Every registered producer<sup>2</sup> may vote in the election of a member to the Commission.
10. A person is not eligible for nomination, election or office as an elected member unless:
  - (a) the person is an individual registered producer or a partner of a firm that is a registered producer or a representative of a corporate registered producer;
  - (b) the person consents in writing to be nominated as a candidate for election;
  - (c) the person is in good standing with all applicable orders made by the Commission; and
  - (d) the nomination is endorsed in writing by not less than 5 registered producers.
11. An elected member may stand for re-election.
12. At least 45 days before the date fixed for holding the election, the Commission will set the date for elections and name the independent returning officer.
13. At least 40 days before the date fixed for holding the election, the independent returning officer will mail to every registered producer a notice:
  - (a) stating the date fixed for the election;
  - (b) enclosing the nomination forms and calling for nominations;
  - (c) stating the deadline for nominations, which shall be at least 25 days before the date fixed for holding the election; and
  - (d) providing the election rules and procedures.
14. If only one person is nominated as a candidate for election as an elected member, that person will be elected by acclamation as of the date fixed for the holding of the election.

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<sup>2</sup> Subsection 3(p) of the *Natural Products Marketing (BC) Act Regulations* (B.C. Reg. 328/75) provides that every partnership or corporation qualified to vote under any scheme will in writing appoint a person to vote in its behalf and will file with the marketing board, commission or returning officer a copy of such appointment.

15. Unless an election of an elected member is by acclamation it will be by secret written mail ballot, as follows:
  - (a) ballots shall be mailed to registered producers at least 15 days before the date fixed for holding the election;
  - (b) registered producers, or the individual appointed to vote on behalf of a registered producer that is a partnership or corporation, are to complete the ballot in accordance with any instructions provided therewith;
  - (c) registered producers are to return the completed ballot to the independent returning officer by the date fixed for holding the election;
  - (d) the independent returning officer counts ballots that have been duly completed in the manner specified in the instructions provided therewith and returned by the date fixed for holding the election;
  - (e) the independent returning officer advises the Commission of the results of the ballot count; and
  - (f) the independent returning officer destroys the ballots.
16. In the event of a tied vote, the Chair of the Commission will cast the deciding vote.
17. In the event of any vacancy in the membership of the Commission, where such membership consists of 3 or more members, the remaining members will constitute the Commission until the vacancy is filled.
18. If a member of the Commission is absent from the Province for 3 consecutive months or fails to attend to his duties for a like period the other members may declare his office vacant.
19. Any member of the Commission will cease to hold office if he is convicted of any offence under the Act or of the scheme established by order in council pursuant to the Act under which he is elected or appointed, or if by notice in writing to the board he resigns his office, or if his office is declared vacant.
20. If a Commission member ceases to hold office or any vacancy occurs in the membership of the Commission, the remaining members, if constituting a quorum, may appoint a member to fill the vacancy, the said appointment to be subject to approval by the British Columbia Farm Industry Review Board.
21. The British Columbia Farm Industry Review Board may fill any vacancy in the membership of the Commission when the members do not constitute a quorum.

22. The Rules and Procedures will be reviewed at the request of a registered producer and in any case no later than 2012. No change may be made to the rules and procedures except with the prior approval by the British Columbia Farm Industry Review Board.
23. These Rules and Procedures come into effect upon the approval of the British Columbia Farm Industry Review Board and replace all previous Rules and Procedures for the election of elected Commission members.