

HATCHERIES
REGULATION D-1, 2016
REQUIREMENTS TO OPERATE A HATCHERY

PART I. LICENSING REQUIREMENTS

(revised January, 2018)

1. Regulation 396 made under the *Farm Products Marketing Act* authorizes the Commission to provide for “the licensing of any or all persons before commencing or continuing to engage in the producing or marketing of a regulated product”, to provide for “the control and regulation of the marketing of a regulated product”. Hatching eggs and chicks are included in the definition of regulated products under Regulation 396.
2. The Commission is further authorized to prescribe and provide for classes of licenses and the imposition of conditions on any class of license for the marketing of broiler hatching chicks.
3. No Hatchery shall hatch or market broiler chicks except under the authority of a licence issued by the Commission, and except in compliance with the conditions of the license so issued.
4. Notwithstanding the foregoing, a Hatchery licence is not required by a Hatchery if it has an incubator-setting capacity of less than 1,000 eggs at any one time. However, a Hatchery with such capacity requires the express written permission from the Commission to operate.
5. As further prescribed herein, conditions may be imposed on any licence issued by the Commission, and those conditions must be met on an on-going basis for the licence to be remain valid.
6. The Commission may refuse to grant or renew a licence, or may revoke or suspend an existing licence, to a person carrying on business, or intending to carry on business, as a Hatchery in Ontario, where:
 - (a) as determined by the Commission, the applicant or licensee has failed to establish to the satisfaction of the Commission that it has the necessary skills, experience, financial stability, and regulation-conforming facilities to properly engage in the business of operating a Hatchery;
 - (b) the Commission determines that the applicant or licensee has failed to comply with any of the requirements imposed as a condition of licensing;
 - (c) the applicant or licensee has failed to comply with a Commission regulation, policy or order; or
 - (d) the applicant or licensee has failed to comply with the *Farm Products Marketing Act*, a regulation made under that Act, a regulation of the Commission, or a plan, order or direction of the Ontario Farm Products Marketing Commission or the Ontario Broiler Hatching Egg & Chick Commission.
7. If the Commission revokes or suspends a licence pursuant to the Paragraph 10 herein, it may make such other ancillary orders as it determines appropriate in the best interests of the hatching egg industry, and/or to protect parties who would otherwise be adversely affected by the revocation or suspension of a licensee.

Application for License

8. An applicant for a Hatchery license must provide the Commission with:
 - (a) proof of a permit to operate a Hatchery issued by the Canadian Food Inspection Agency;
 - (b) a copy of the applicant’s deed of land or lease for the premises for which the permit was issued and on which the Hatchery will operate;

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- (c) a completed application in a form prescribed by the Commission (Form 43 - Information of Hatchery Ownership);
 - (d) security equal to or greater than 10% of the forecasted value of the total projected annual chick sales for year 1 of hatchery operation to a maximum of one million dollars security (\$1,000,000). At the commencement of year 2 of hatchery operation, security equal to or greater than 10% of the forecasted value of the total projected annual chick sales to a maximum of one million dollars security (\$1,000,000). Security shall be in the form identified in Paragraph 14 herein, in favour of the Commission as beneficiary, and shall be held by the Commission until the later of:
 - i) two years from the date of license, provided such period is without incident of late or non-payment as defined in PH-401, Section 4, and without incident of non-payment to the Commission of license fees and levies as per Regulation E-1, Part II; and
 - ii) two years from the date of most recent hatchery incident of late or non-payment as defined in PH-401, Section 4 or from the data of most recent incident of non-payment to the Commission of license fees and levies as per Regulation E-1, Part II.
 - (e) such other information and/or documentation as the Commission may from time to time require.
9. The Commission shall not issue a hatchery licence to a newly commissioned Hatchery until such time as the Commission is satisfied that the security prescribed herein has been provided.

Maintenance of License

10. The Commission may suspend or revoke a Hatchery licence if the Hatchery has:
- (a) breached a Commission regulation, policy, order or direction;
 - (b) without limiting the generality of the foregoing, has breached the Minimum Standards of Animal Care and Husbandry as defined in Commission Regulation I-2, or the obligation to pay hatching egg producers in full within eleven (11) days of hatch, as defined in Regulation PH 401 at Section 4.1;
 - (c) failed to comply with a plan, order or direction of the Ontario Farm Products Marketing Commission;
 - (d) breached the Farm Products Marketing Act and/or its regulations;
 - (e) failed to obtain Commission approval at least sixty (60) days in advance of any change in deed or leasehold interest in the premises for which the Canadian Food Inspection Agency permit was issued and on which the Hatchery operates; or
 - (f) failed to obtain Commission approval at least sixty (60) days in advance of any change in Hatchery ownership.
11. For newly licensed hatcheries, the following requirements shall also apply, for a period of 6 months from the date of the Hatchery's first chick sale:
- (a) Where a Producer's rate of hatch for three (3) consecutive eggs sets is more than five (5) per cent below the industry average hatchability as calculated by the Commission for the breed and age of the

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Producer's flock, the Hatchery Operator shall initiate an investigation into the reason for the reduction, and shall advise the Producer / selling Hatchery and the Commission of its findings. This clause applies to eggs purchased from a Producer or from another hatchery;

- (b) Where hatchability rate reduction is due to failure of the Hatchery's equipment / process (not withstanding issues related to hatching egg quality), the Hatchery will continue to pay the Producer / selling Hatchery on the basis of the industry average hatchability as described above until the hatch rate concern is rectified;
 - (c) Subsequent to the investigation and report, the Commission may order the Hatchery to pay the Producer / selling Hatchery for the affected egg lots, in accordance with OBHECC calculated industry average hatchability.
12. Upon a finding by the Commission that any one or more of the above provisions has been breached, the Commission may at its discretion revoke, suspend, or refuse to renew a Hatchery license, and may make such ancillary orders as it determines appropriate in the best interests of the hatching egg industry, and/or to protect parties who would otherwise be adversely affected by a change to a Hatchery's licensing status.
13. Notwithstanding the Terms and Conditions contained in the schedules to the current All-Purpose Contract (Regulation E-10, 1998), the Commission may, by order, direction or through conditions imposed on any licence, require a Hatchery to offer to sell, and to sell, all chicks hatched by the Hatchery to or through the Commission.

PART II. HATCHERY FURNISHING OF FINANCIAL SECURITY and DISPOSITION OF PROCEEDS (revised January 2018)

14. The security on deposit with the Commission referred to in Paragraph 8 shall be in the form of either:
- (a) an irrevocable letter of credit in the amount identified in Paragraph 8(d), issued by a financial institution acceptable to the Commission; or
 - (b) an irrevocable assignment of investment in the amount identified in Paragraph 8(d) held at a financial institution acceptable to the Commission. The assignment of investment shall be further defined by an assignment agreement acceptable to the Commission.
15. The security on deposit shall be irrevocable and the named beneficiary of the security shall be the Commission. The term of the security shall be for a minimum period of two years from the date of the issuance of the new Hatchery licence.
16. The security delivered to the Commission shall include a provision enabling the Commission to realize on the security upon presentation of a certificate by a signing officer of the Commission.
17. Where a Producer has established to the Commission's satisfaction that a newly licensed Hatchery has, following reasonable notice, failed to pay a contracting Producer in accordance with PH-401, Section 4.1, and an amount greater than \$1,000 remains owing to the Producer, the Commission may, on notice to the Hatchery, draw on the security provided in accordance with Paragraph 14 herein, and use such funds to forward payment to the contracting Producer for hatched saleable chicks.

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18. Where a Hatchery has established to the Commission's satisfaction that a newly licensed Hatchery has failed, following reasonable notice, to pay for some or all of the purchase price for hatching eggs or chicks and an amount greater than \$1,000 remains owing to the seller, the Commission may, on notice to the purchasing Hatchery, draw on the security, and use such funds to forward payment to the selling Hatchery for hatching eggs or chicks.
19. The Commission will notify the Hatchery in writing before drawing in whole or in part on the deposited security in accordance with this Regulation. Upon receipt of such notice, the Hatchery shall have 24 hours to request that the Commission schedule a hearing at which the Hatchery shall have the opportunity to show cause as to why a draw on its security is not warranted. A hearing so requested shall be held no later than the next scheduled Commission Board meeting.
20. If the Commission is required to draw on the security, the newly licensed Hatchery agrees to deposit with the Commission such further security as shall be required to satisfy the requirements of Paragraph 8 of this Regulation within 30 calendar days of such draw. Where the security deposit is not fully restored within 30 days, the newly licensed Hatchery shall pay the Commission interest at a rate of 1% per month of the security outstanding, until such time as the security has been fully replenished.
21. Any draw on the security document shall be immediately paid by the Commission to the Producer and/or the contracting Hatchery whose invoice(s) remain outstanding.
22. Where the Commission draws on the security document, the Producer and/or Hatchery's payment will include interest on any amounts received later than eleven (11) days from the date of hatch, at the Hatchery's bank prime rate of interest plus two (2%) per cent.
23. The Commission shall retain the original security document received from the newly licensed Hatchery until it is replaced, expired, or is drawn down in whole or in part by the Commission, or is no longer required by this Regulation.

PART III. REPORTING REQUIREMENTS

(revised October 2016)

24. All reporting required by the Commission shall be submitted on time according to applicable schedules and fully completed. False or misleading information shall be considered a contravention of Commission regulations and may be subject to prosecution under Regulation E-7.
25. All relevant data listed in the sections below must be reported via the OBHECC website. In instances where there is no reportable activity for the week, the "Close Week" button must be selected from within the OBHECC website.

The following data must be entered online on a per lot basis:

"lot" means a group of hatching eggs defined by one source, date of receipt and length of hold by the hatchery, and when set, one date of setting, for the purposes of identification throughout the hatching process.

1. Domestic / Contracted Egg Inventory:

This data must be entered prior to Wednesday at 4:00pm of the week following the reporting period

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- i) Domestic Eggs Received
 - ii) Domestic Eggs Sold/Other
 - iii) Domestic Eggs Set
 - iv) Domestic Egg Hatches
2. Purchased Egg Inventory:
This data must be entered prior to Wednesday at 4:00pm of the week following the reporting period
- i) Purchased Eggs Received
 - ii) Purchased Eggs Sold/Other
 - iii) Purchased Eggs Set
 - iv) Purchased Egg Hatches
3. Broiler Chick Movement:
This data must be entered prior to Wednesday at 4:00pm of the week following the reporting period
- i) Chicks Purchased from Other Hatcheries
 - ii) Chicks Purchased from International Sources
 - iii) Chicks Purchased from Interprovincial Sources
 - iv) Custom Hatch Received
4. Broiler Placement:
This data must be entered prior to Wednesday at 4:00pm of the week following the reporting period
- i) Broiler chicks purchased / received from custom hatch /destroyed report
 - ii) Broiler chicks movements in and out of the brooder report
 - iii) Each sale to CFO Chicken Farmers, Broker Dealers, Researchers or Small Flock Customers including:
 - 1) Each Vaccine administered as part of the sales
 - 2) Price for each sale
 - 3) Source flocks for each sale
26. All data for the week ending reporting week should be entered and balanced by 4:00 pm by the following Wednesday. The "close week" button must be selected from within the website so that OBHECC staff are updated on the status of the data.
27. The provision of incorrect information in connection with these reports shall be construed by the Commission as a breach of this section.
28. Hatch records showing number of saleable pullets and number of saleable cockerels obtained from each lot of eggs set must be available at the hatchery for review by Commission inspection staff while in attendance during hatch processing, or immediately upon request following hatch processing for a period of up to eighteen months.

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29. Hatcheries are required to keep records such that if a producer's hatching eggs are set in multiple settings, hatchability must be recorded for each individual setting.
 - i) For setting of eggs from contract and owned flocks, every setting must be recorded so that egg lots are identified at minimum by three terms: (1) FLOCK SOURCE: (2a) EGGS PICKED UP AND SET WITHIN SEVEN DAYS OF PICKUP OR (2b) EGGS PICKED UP AND SET MORE THAN SEVEN DAYS AFTER PICKUP: (3) DATE OF SETTING
 - ii) For setting of purchased eggs and custom setting, every setting must be recorded so that egg lots are identified at minimum by three terms: (1) SUPPLIER: (2) DATE OF SHIPMENT RECEIVED AT HATCHERY: (3) DATE OF SETTING
30. In the event that the website is unavailable, an extension will be granted based on the period of time that the website was unavailable.
31. In the event that manual intervention is required by OBHECC to correct data entry issues on the site, an extension may be granted for the specific data that was involved.
32. At the completion of every four (4) week period, corresponding with the appropriate licence fee period (Regulation E-1), each hatchery shall deliver to the Commission a complete and accurate flock change report (Form 11) or report via OBHECC website, so that reference can be made to each flock as allocated. Any additional replacements for early mortality or spiking cockerels ordered and placed outside of contract must also be included on the report for the appropriate time frame. This report shall be delivered to the Commission office within ten (10) days following the completion of the relevant reporting period.
33. Every hatchery shall report immediately in writing to the Commission the particulars of any and all amendments to statistical information supplied by it to any organization, including Agriculture & Agri-Food Canada, pertaining to the production and/or marketing of hatching eggs and/or broiler chicks.
34. Every hatchery shall report to the Commission by email (preferred method), or by telephone or by faxing the Commission office between 8:30 a.m. and 4:00 p.m. weekdays, the intent to euthanize a quantified number of saleable chicks and/or intent to dispose of cull eggs in excess of 1000 derived from a hatching egg lot, at least two (2) hours prior to the proposed commencement time. During Saturdays, Sundays, statutory holidays or any other time notice cannot be given as prescribed above, two (2) hours' notice of intention must be provided to the Commission by emailing the address provided or by leaving a recorded message at the telephone number(s) provided for this purpose.
35. All broiler chicks not destined for chicken meat production must be euthanized as per Regulation I-2, Part II, Paragraph 20. Any exception to this part requires written approval from OBHECC prior to the day old chicks leaving the hatchery.
36. Every hatchery shall report to the Commission by email (preferred method), by telephone or by fax to the Commission office, any unforeseen mortality pertaining to saleable chicks or embryos under control of the hatchery, within two (2) hours of the hatchery discovering such mortality. During Saturdays, Sundays, statutory holidays or any other time reporting cannot be given as prescribed above, a report must be provided to the Commission within two (2) hours' of discovering the such mortality by emailing the address provided or by leaving a recorded message at the telephone number(s) provided for this purpose.

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37. A record showing price per chick charged and number of chicks delivered shall be completed for each delivery of broiler chicks from a hatchery to a Chicken Farmer and be retained at the hatchery for a period of at least eighteen months.
38. Invoices and/or shipping slips quantifying all eggs purchased, sold or received for custom hatch or sent off premises for custom hatch must be completed and copies retained at all hatcheries involved in any transaction for a period of at least eighteen months.
39. Invoices and/or shipping slips quantifying all chicks purchased, sold or received from custom hatch at another hatchery must be completed and copies retained at all hatcheries involved in any transaction for a period of at least eighteen months.

PART IV. PRICING REQUIREMENTS

(revised July 1998)

40. Except as provided elsewhere in this Regulation, every person who markets hatching eggs or broiler chicks must offer for sale, sell and receive payment for those eggs and chicks at or above the minimum price set from time to time by the Commission.
41. Pricing Orders made by the Commission from time to time shall establish the conditions of sale and the minimum prices payable to the hatchery or other sellers for mixed chicks, sexed male chicks and sexed female chicks.
42. Subject to any rules and regulations established by the Canadian Hatching Egg Producers (CHEP), a hatchery which markets hatching eggs or broiler chicks to another hatchery is exempt from the provisions of this part.
43. Payment for all hatching eggs from contracted flocks must be made weekly per terms of the Standard All Purpose Contract and relevant Pricing Order and must be supported by a pay statement on a flock by flock basis and retained at the hatchery for a period of at least eighteen months.

PART V. CUSTOM HATCH SERVICES

(revised October 2016)

44. Where a hatchery which is licensed by the Commission and desires to have another Commission licensed hatchery custom hatch eggs on its behalf both hatcheries are exempt from requirements for a "Custom Hatch Permit".
45. Where a hatching egg producer is also a licenced Chicken Farmer and desires chicks delivered for licenced commercial production, the Chicken Farmer must use an OBHECC licenced hatchery that has a valid Commission "Custom Hatch Permit".
46. Where a Commission licensed hatchery desires to custom hatch eggs on behalf of a Non-White Rock hatching egg producer, the licensed hatchery must apply to the Commission for a "Custom Hatching Permit" prior to the setting of the hatching eggs.
47. It shall be the obligation of the owner of the hatching eggs to satisfy itself as to whether or not the hatchery producing the broiler chicks under the custom hatch agreement, is licensed by the Commission.

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PART VI. PRICE AND ADJUSTMENT PROCEDURES

(revised January 2018)

48. A CFO Chicken Farmer shall pay the appropriate invoice price for broiler chicks pursuant to the Broiler Chick Price Determination Order in force at the time of delivery of the subject chicks. Failure to pay for all broiler chicks delivered to a broiler producer in full within seven (7) days of shipment of the birds from the broiler producer's facility to the processor may result in provisions of Regulation E-7, Contraventions of Regulations and Orders, being implemented.
49. A CFO Chicken Farmer may request an adjustment in the chick payment for reasons of chick mortality originating from the selling hatchery. If the selling hatchery deems an adjustment is warranted, the selling hatchery will be permitted to make such a price adjustment to a broiler producer, provided that:
- (a) documentation supporting such a notice of adjustment is made available to Commission inspection staff upon request.
50. In the event of a dispute between a broiler producer and its selling hatchery the broiler producer may request OBHECC to convene an Adjustment Panel. A request will be considered if the following conditions are met:
- (a) a request is received not later than twenty-one days (21), following the broiler chick placement;
 - (b) flock mortality data has been submitted and indicates that 7-day mortality is over 2 percent of total placed;
 - (c) original delivery slip for the subject flock has been provided.
51. OBHECC staff will require the following before submitting a request to the Commission to convene an Adjustment Panel:
- (a) Provisions of all Chick Price Determination Orders, have been complied with by the CFO Farmer Member applicant;
 - (b) veterinarian's report has been submitted;
 - (c) an attempt to resolve the issue with the hatchery in question has been made;
 - (d) Documentation which demonstrates that the chicks were placed into an environment which allowed them to thrive as per OBHECC Policy Direction #65;
 - (e) any other documentation requested by the Commission.
52. The panel shall consist of:
- a) One (1) voting chair appointed by the Commission;
 - b) One (1) voting OBHECC director appointed from the Ontario Broiler Chick Hatching Egg Producer's Association;
 - c) One (1) voting OBHECC director appointed from the Ontario Hatcheries Association;

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- d) One (1) Independent Veterinarian in a non-voting advisory role.
53. Any convened Adjustment Panel will follow the procedures outlined in OBHECC Policy Direction #65.
54. Should the provisions of Paragraph 50 herein be exercised, the Adjustment Panel shall make a recommendation pertaining to the complaint to the Commission. The Commission shall render a decision and notify the hatchery and broiler producer no later than the next scheduled OBHECC Board meeting. If any price adjustment is required, the hatchery shall provide payment within seven (7) days after receiving notice of the decision.

PART VII. PLACEMENT OF BREEDER STOCK CONTRARY TO PRODUCTION ALLOCATION (revised October 2016)

55. The rules pertaining to placement of breeder stock in a growing facility or laying facility, in accordance with production allocation, are:
- (a) Allocation is specific to the Hatching Egg Market Share for the barn or group of barns covered by the production certificate.
 - (b) The number of day old pullets ordered, received and placed by the contracting hatchery must equal the total number of day old females allocated for that date for the Hatching Egg Market Share under which those breeder chicks are to be placed, save for replacements allowable pursuant to Regulation B-2, Part I, Paragraph 8(b).
 - (c) Where it is determined that ordering, receiving or placing breeder stock contrary to allocation has been effected by the hatchery ordering the breeding stock, that hatchery shall be considered to be in violation of this section.
 - (d) Where there is a desire by a contracting party to have the placement date changed from the one on the allocation certificate, application for change of allocation must be submitted by the contracting hatchery and must be approved by the Commission prior to placement, subject to Regulation C-2, Part II, Paragraph 15.
 - (e) Where short notice change of date of placement has been effected by the supplier of the breeding stock, the contracting hatchery must inform the Commission upon learning of the change.
 - (f) Where there is a placement of breeder stock in excess of that authorized by the Commission per paragraph (b) above, such breeder stock shall be humanely euthanized as per Regulation I-2, Part II, Paragraph 20 by the hatchery which ordered the excess chicks, such disposal to take place in the presence of Commission inspection staff within ten (10) days of notification to the Commission.
 - (g) Where there has been a placement of breeder stock in a growing or laying facility, the hatchery responsible for this placement shall not pass on to either the breeder grower or the hatching egg producer any of the costs associated with the disposal of the excess stock.
 - (h) Any dispute concerning compensation for any losses incurred by either a breeder grower or a hatching egg producer as a result of this disposal policy shall be heard by the Commission and the Commission's decision shall be binding.

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PART VIII. HATCHING EGGS AND BROILER CHICK TRANSACTIONS

(revised October 2016)

56. (a) Hatcheries shall obtain Ontario produced hatching eggs only from Commission licensed hatching egg producers or hatcheries.
- (b) No hatchery shall market OBHECC allocated Ontario hatching eggs in excess of the number authorized by the Commission.
- (c) A 2% sleeve shall be allowed on the Final Egg Production Limit, only with agreement of both the contracting hatchery and hatching egg producer.
- (d) A hatchery is equally responsible with its contracted hatching egg producer to ensure that pickup of hatching eggs does not exceed the Final Egg Production Limit.
- (e) If it is determined that the Final Egg Production Limit, as specified on a production allocation certificate for a flock, is exceeded, a fee plus applicable taxes will be assessed equally to the hatchery and its contracted hatching egg producer. The fee to each of the parties will be in the amount of 17.5 cents per excess hatching egg picked up by the hatchery.
- (f) Hatcheries may market hatching eggs only in the following circumstances:
- (i) to other licensed hatcheries in Ontario;
 - (ii) for interprovincial trade or export provided both the selling hatchery and the buyer have a current Interprovincial and Export Licence from CHEP;
 - (iii) to any person in quantities of less than 372 hatching eggs;
 - (iv) to any person in other quantities with written permission from OBHECC in advance of marketing.
- (g) Hatcheries marketing broiler chicks to other than a licensed hatchery, a licensed broker dealer or a broiler producer, shall limit each transaction to a small lot as defined in Regulation A-1.

PART IX. UTILIZATION OF THE STANDARD ALL PURPOSE CONTRACT

(revised October 2016)

57. (a) The relationship between a grower, producer and hatchery shall be governed by the standard contract approved by OBHECC for use in the industry, and the applicable terms and conditions as amended from time to time set out in Regulation E-10. The use of the contract is mandatory for all flocks and must be signed by each party to the contract for each flock.
- (b) Failure to sign within the stipulated time period shall be an offence of the regulations, and unless the parties agree to the contrary, the appropriate document shall be completed ninety (90) days before the date of placement of the breeder flock at day old.
- (c) Where it is determined that a Hatchery has neglected or refused to complete a contract in a timely manner without a valid written explanation, that Hatchery shall be deemed to be in violation of this part.

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- (d) Failure to arrive at a fully completed contract within the stipulated time stated in Paragraph 57(b) herein shall result in the hatchery notifying OBHECC staff forty-five (45) days or more prior to day old placement of the breeder flock, at which time the Board will order a meeting of all parties to facilitate a resolution of the outstanding differences in order to attain all required signatures. The fully completed contract must be delivered to OBHECC not later than thirty (30) days prior to day old placement.
- (e) The relationship between a Non-White Rock grower, producer and hatchery shall not be governed by the provisions of Paragraph 57 herein.