



Manitoba Government
Employment Standards Code

Re: Request for views on modernizing the province's Employment Standards Code

January 12, 2006

Manitoba Chicken Producers has the responsibility of regulating the Manitoba chicken and hatching egg industries in Manitoba. In performing these duties, Manitoba Chicken Producers represents approximately 150 producers from these industries.

We thank you for the opportunity to share our views on modernizing the province's Employment Standards.

As you point out in your discussion guide, there have been significant changes in the nature of work since the last major revision. Likewise in agriculture, there has been significant changes in the nature of farms. With shrinking margins, agricultural operations have been forced to expand in order to maintain any semblance of profitability. Increased economies of scale have been required to maintain the family farm, even if that regularly involves labor that is not supplied by family members. While the economies of scale have changed, the nature of farm work has not necessarily changed. Farmers still have significant seasonal work, or scheduled work that involves significant concentrations of labour followed by "normal" operations. Examples of these would be seeding, facility washouts, etc.

Due to these requirements of farm labour, employees and employers in agriculture generally work through these issues, whereby an employee will realize that at certain periods of the year, work weeks will require significantly more hours than a standard 40 hours, while other weeks may require significantly less, and that these work weeks will average out over the course of a year. Quite often this employee will receive a standard annual wage, and accept the 20 hour weeks with the 60 hour weeks.

The critical issue from your discussion guideline facing Manitoba's poultry industry is the review of exclusion of agricultural workers. The simplest solution would be to continue the exclusion of all agricultural workers from the code, and then define what qualifies as an agricultural worker. Manitoba Chicken Producers feels strongly that family farms require this type of exclusion in order to seek out and keep farm employees.

Often the arrangements that producers have with their employees are one of joint agreement, and the flexibility created by concentrated work weeks and lighter work weeks often are mutually beneficial. Family farms would have a difficult time with some potential ramifications of the Employment Standards Review on an economic standpoint – overtime as a multiple of base pay, maximum weekly hours, statutory holidays to identify but a few. That said, Manitoba Chicken Producers recognizes that not all agricultural workers are employed by family farm operations. If a blanket exclusion for agricultural workers is not an option for the Government of Manitoba, then perhaps an exclusion for operations that do not employ more than a specific number of non-family employees is a potential alternative. In this manner, a family operation that employs 5 or 6 non-family employees on a full time basis, and requires some seasonal employees as well, would not be challenged by the Employment Standards in their new form, whatever that may be. A suggested number for agricultural exclusion would be operations with 10 non-family employees, with allowances to double that number for a set maximum number of weeks for seasonal or specific operational requirements.

This would continue to exclude most family operations from requiring approval of averaging agreements, which if not excluded, would be burdensome and administrative challenging for most family farm operations.

While the above suggestion for agricultural exclusion would thereby address our concerns, we do feel a necessity to provide views on the individual components of the Guideline Review in the event that some version of agricultural exclusion is not included.

A standard work week of 40 hours, including a standard work day of 8 hours, with overtime paid at 1 ½ rate is simply unacceptable to Manitoba poultry operations. Averaging weeks is a necessity, however, burdensome administration and approvals are not an option. Family farms require an exclusion to this policy.

Farm / facility managers have reached the remuneration levels they are at because of the expectation that they ensure the work the needs to be accomplished is completed. Managers are in control of their time and often in control of all employees. This responsibility requires that managers are excluded from overtime provisions.

Poultry and livestock do not recognize statutory holidays. The same chores are required whether it is July 1st or July 2nd. This is very simple – agricultural operations require that part-time workers be excluded from any such provisions.

Employment of children is a sensitive issue regarding agriculture. There are always graduated tasks that children can accomplish with minimal or non-supervision based on their physical strengths and maturity. Most farmers encourage their children to accomplish these tasks in order to create the work ethic that is required to succeed in later goals and career choices. Family farms require an exclusion to children working. If this blanket exclusion is not provided, then a detailed definition of what constitutes child employment would specifically need to identify that family farm situations exclude children of the owner as an employee even if they are rewarded for completing tasks.

Once again, Manitoba Chicken Producers thank the Government of Manitoba for the opportunity to provide feedback regarding the review of the Employment Standards.

Sincerely,

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General Manager

Cc: Keystone Agricultural Producers,
Honourable Rosann Wowchuk, Minister of Agriculture, Food, and Rural Initiatives
Gordon Mackenzie, Director, Manitoba Farm Products Marketing Council