

DFPEI 2012-07
DAIRY FARMERS OF PRINCE EDWARD ISLAND

BOARD ORDER: DFPEI 2012-07

EFFECTIVE: 20 August 2012

Under the Dairy Farmers of Prince Edward Island Regulations and under the ***Natural Products Marketing Act***, R.S.P.E.I. 1988, Cap. N-3, Dairy Farmers of Prince Edward Island makes the following Order:

MARKETING ORDER

Application

1. This Order applies to the control and regulation of the production and marketing of milk in the province of Prince Edward Island.

Definitions

2. The words herein shall have the meanings as found in the **Natural Products Marketing Act** and the Dairy Farmers of Prince Edward Island Regulations and in this Order:

(a) "Dairy year" shall mean a twelve month period from August 1st in one year to July 31st in the next succeeding year.

(b) "Department" shall mean the Prince Edward Island Department of Agriculture.

(c) "Immediate family members" means father, mother, son, daughter, sister, brother, grandfather, grandmother, grandson or granddaughter of a person;

(d) "Producer" means a person who holds quota and has no other interest in any other quota, who markets or sells milk that has been produced by a herd of dairy animals owned or controlled by the producer;

(e) "Quota" means a producer's share of the market for milk products as determined by the Board and assigned to a producer by the Board.

(f) "Quota days" are the number of days from the last day milk is delivered to a processor in the previous month to the last day milk is delivered to a processor in the current month.

Daily quota

3. Quota assigned by the Board to a registered quota holder shall be expressed in kilograms of butterfat per day rounded to two decimal places.

Minimum

Quota Holding

4. A producer must hold a minimum of 10 Kg of daily quota to market milk. Producers who hold less than 10 Kg of daily quota as of 31 December 2009 may continue to market milk based on their quota holdings as of that date or if they increase their quota holdings after that date, but may not market milk if they sell or transfer any portion of their quota. Exceptions may be considered by the Board only if a producer intends to market all milk from his farm through on farm processing.

Monthly quota

5. The amount of quota available to a registered quota holder that markets milk in a calendar month shall be equal to their daily quota multiplied by the number of Quota Days in the month rounded to the nearest kilogram of butterfat.

However, if milk was not shipped on the last pickup or pickups in a month, the following procedures apply. If quota days are less than the current month's calendar days minus one, then quota days are the difference in the number of days from the last day milk was delivered to a processor in the previous month to the last calendar day in the current month. When calendar days are used, the last day of the month is deemed to be the last pickup date for the month for the next month's quota day calculations.

Quota credit system

6. Recognizing that milk producers efforts to fill their daily quota shall result in production either slightly above or slightly below their monthly quota, the Board shall allow milk producers to over ship up to a maximum of ten (10) times their daily quota on a cumulative basis, referred to as Over Quota Production Credits, or to under ship up to a maximum of thirty (30) times their daily quota on a cumulative basis, referred to as Under Quota Production Credits.

Maximum over quota production credits

(1) The maximum number of over quota production credits available to a milk producer shall be determined by the Board by multiplying a milk producer's daily quota holdings at the end of a month by ten.

Maximum under quota production credits

(2) The maximum number of under quota production credits available to a milk producer shall be determined by the Board by multiplying a milk producer's daily quota holdings at the end of a month by thirty.

Idem

(3) A milk producer shipping slightly under quota in a month shall be allowed to offset all or part of the under production against Over Quota Production Credits carried forward from the previous month, or to carry forward the Under Quota Production Credits to future months to offset future over quota production provided that the cumulative under production of the producer does not exceed thirty (30) times the producer's daily quota.

Idem

(4) A milk producer shipping slightly over quota shall be allowed to offset all or part of the over quota production against Under Quota Production Credits carried forward from the previous month or to use available Over Quota Production Credits provided that the cumulative over quota of the producer does not exceed ten (10) times the producer's daily quota.

Responsibility for accumulated over quota production credits

(5) A milk producer shall be financially responsible to the Board for the value of all accumulated over quota production credits at the time the producer exits the industry.

Value of over quota production credits

(6) The value of over quota production credits accumulated by a producer shall be calculated by the Board and shall equal the value of blended component returns from the All Milk Pool received by the Board for the month in which the producer is financially responsible to the Board.

Payment method	<p>(7) A producer may compensate the Board for the value of accumulated over quota production credits in any of the following manners:</p> <p>(a) In the case where a producer exiting the industry by transferring his quota to a purchaser of his on-going dairy enterprise, or to a new producer relocating the quota to a non-producing farm location, the accumulated over quota production credits may be transferred to the purchaser of the quota provided the purchaser agrees to the transfer, in writing, to the Board.</p> <p>(b) In the case where a producer is exiting the industry by selling his quota on the Quota Exchange, the producer may pay the Board for the value of accumulated over quota production credits from the proceeds of quota sold.</p>
Non-payment of accumulated over quota production credits	<p>(8) Where a producer has not paid the Board for the value of accumulated over quota production credits, the Board shall deduct the value of the accumulated over quota production credits from payments due to the producer, including payments for quota sold by the producer on the Quota Exchange.</p>
Idem	<p>(9) The Board shall not approve a transfer of quota from one producer to another producer where the Board has not been compensated for the value of accumulated over quota production credits held by the transferor.</p>
Transfer of under quota production credits	<p>(10) A producer may only transfer under quota production credits to a purchaser of his on-going dairy enterprise or to an immediate family member where the Board has approved the transfer of all the quota holdings of the producer to an immediate family member.</p>
Seasonal quota incentives	<p>7. The Board may, from time to time, offer registered quota holders seasonal quota incentives to promote the delivery of additional milk required to meet seasonal demand for dairy products during certain periods of the year. Such incentives shall be temporary in nature, shall be expressed in kilograms of butterfat and shall not form part of a registered quota holder's quota holdings.</p>
Payment of levies	<p>8. No registered quota holder shall market milk without paying the fees, service charges or levies fixed by the Board.</p>
Ownership of cows and land	<p>9. No registered quota holder shall market milk that is not produced by cows owned, leased or rented by him and located on property owned, leased or rented by him.</p>
Shipments in registered name	<p>10. No registered quota holder shall ship or sell milk under the name of any other person or under any other designation. A registered quota holder must ship and sell in the name under which he has been registered, all the milk sent to market from his farm.</p>
Processors receiving milk	<p>11. No processor shall receive milk from a person who is not in possession of a</p>

registration number and a quota assigned by the Board.

Quotas property
of Board

12. Quotas are the property of the Board and are not transferrable between registered quota holders except as provided for in Board Orders.

Non-production

13. A registered quota holder who ceases to market milk in three consecutive calendar months shall have his quota revert to the Board.

Catastrophes

14. A registered quota holder who has reduced deliveries or discontinued production temporarily due to a catastrophe, may apply to the Board for relief from Board Orders.

Idem

(1) A catastrophe may include severe injury, severe illness or death of the registered quota holder or the person(s) responsible for the dairy herd, the sudden death or loss of a significant part of the milking herd or destruction of the production facilities.

Relief available

(2) The Board may grant a producer that has suffered a catastrophe one or both of the following:

(a) An exemption from the registered quota holder's quota reverting to the Board for a period of up to twenty-four (24) consecutive months after the catastrophe occurred, or

(b) Approval for the producer to lease all or part of the producer's daily quota to another registered quota holder(s) for a period of up to twenty-four consecutive months after the catastrophe occurred.

Catastrophe clause
lease policy

(3) The Board shall establish and maintain a Catastrophe Clause Quota Leasing Policy that may be amended from time to time and the Board shall make the policy, or any amendments made thereto, available to all registered quota holders.

Lost under quota
production credits

(4) The Board shall not reinstate under quota production credits lost by any producer for any reason.

Quota adjustments

15. The Board may, from time to time, adjust producer quota holdings to reflect changes in demand for dairy products. Such adjustments shall be made to the quota holdings of all registered quota holders on a pro-rata basis.

Quota reserve

16. The Board may, at its discretion, hold an amount of quota in reserve.

Transfers of
quota

17. Quotas may be transferred under the following conditions:

(1) In the case of off-farm transfers, from a father to a son or daughter or from a mother to a son or daughter provided no conditions or restrictions are in effect on the quota holdings of the transferor or transferee pursuant to other sections of this Order or any other Order of the Board.

(2) To the purchaser of an on-going dairy enterprise where the purchaser is a new producer and has purchased all land, buildings, dairy equipment and all the milking herd. Such transfers shall be conditional on the producer marketing all milk from the purchased farm location for at least twenty-four consecutive months after the date of purchase or such quota shall revert to the Board.

(3) To the purchaser of an on-going dairy enterprise where the purchaser is a registered producer and has purchased all land, buildings, dairy equipment and all the milking herd, with the intent of expanding his dairy enterprise. Such transfers shall be conditional on the producer marketing all milk from the new farm location for at least twenty-four consecutive calendar months after the date of purchase or such quota transferred shall revert to the Board.

(4) To a new producer where the quota is being transferred from a retiring producer and the new producer wishes to relocate the quota to a non-producing farm location, provided that the new producer shall not be allowed to combine the quota with any other quota for at least five (5) years except as specified in Section 17 (5) (below).

(5) To a producer who has purchased quota through the Quota Exchanges operated by the Board under the Quota Exchange Order.

(6) Effective 1 November 2010, no new applications to transfer quota as specified in Section 17 (3) (above) will be accepted.

(7) Any producer who sells all their quota shall be prohibited for a period of two years, from the date of the quota sale, from marketing milk at the location where that producer had previously operated a dairy farm. This prohibition also applies to the producer's immediate family members, business partner or any corporation in which the producer holds an interest.

Lease equivalent
to purchase

18. For the purposes of determining eligibility for a transfer of quota under sections 17(2) and 17(3) the Board may consider as equivalent to a purchase, a long term lease (five years or more) which contains an offer to purchase clause.

Prior Board
approval required

19. All transfers of quota are subject to prior approval by the Board.

Quota reserve

20. Quota that has reverted to the Board due to a producer failing to comply with Board Orders shall become part of a reserve, which may be distributed by the Board to qualifying producers on a basis determined by the Board.

Processor
deductions

21. Each processor shall deduct from monies payable to a producer any levies established by a Board Order and shall remit the said levies to the Board by the twentieth of the month following the month the milk was delivered.

Processor reports

22. Each processor shall supply the Board with a report of each producer's deliveries and the amount of levies collected in a form acceptable to the Board.

Establishment of
provincial quota

23. The Board, from time to time, shall determine the amount of quota needed to produce sufficient milk to meet the province's quota share.

- Quota allocation 24. The Board shall allocate the provincial quota to all registered quota holders based on a percentage of their quota holdings compared to the total provincial quota holdings.
- Quota adjustments 25. The Board may adjust producer quotas at any time to reflect an increase or decrease in the quota allocated to the province, market conditions or production variances.
- Pro Rata 26. Where a quota adjustment is necessary, such adjustments shall be assessed, pro rata to all registered quota holders.
- Cancellation of quota 27. The Board may cancel all or part of a producer's quota where the producer has contravened any Order of the Board.
- Revocation 28. Dairy Farmers of Prince Edward Island Order DFPEI 2011-01, is hereby revoked.
- Commencement 29. This Order comes into force on 20 August 2012.

DATED at Charlottetown, Prince Edward Island, this 10th day of August 2012.

<< Original signed by >>

Harold MacNevin, Chairman

<< Original signed by >>

Ronald Maynard, Secretary

