

## DFPEI 2023-07

### DAIRY FARMERS OF PRINCE EDWARD ISLAND

ORDER: DFPEI 2023-07

EFFECTIVE: 1 October 2023

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:

#### CREDIT TRANSFER AND EXCHANGE ORDER

##### Application

1. This order establishes a system for the transfer of production credits between quota holders that are allotted quota by DFPEI and provides for the establishment, control and operation of a credit transfer exchange for producers by Dairy Farmers of Prince Edward Island.

##### Definitions

2. (1) The words herein shall have meanings as found in the *Natural Products Marketing Act* and the Dairy Farmers of Prince Edward Island Regulations under that Act, or as specified below.
- (2) In this order:
- (a) “buyer” means a milk producer who obtains credits from other milk producers;
  - (b) "cleared" means the process by which the Board shall conduct the transfer of credits between milk producers who participate in the exchange;
  - (c) “credit” means an unused unit of milk production, equal to 1 Kg of butterfat quota, that is created when daily quota is not filled to its maximum potential, including any flexibility granted by DFPEI to manage milk production, as permitted by the quota credit system;
  - (d) “credit transfer” is the re-allocation of one or more credits from one milk producer to another, which may be for a fee;
  - (e) “credit transfer exchange” means an exchange established, controlled and operated by DFPEI for the transfer of credits between milk producers;
  - (f) “DFPEI” means Dairy Farmers of Prince Edward Island;

- (g) “milk” includes whole milk and such products of milk that are supplied, processed, distributed or sold in any form;
- (h) “Milk Information System” or “MIS” is a computer software developed by DFPEI that allows milk producers access to their information and facilitates business transactions between milk producers and DFPEI;
- (i) “milk producer” means an individual, partnership, corporation, syndicate or business group that produces and markets milk for processing;
- (j) “producer portal” means a secure web-based channel to the MIS that allows milk producers to access their individual information and conduct certain business transactions related to their operations, including credit and quota transfers;
- (k) “quota” means a milk producer’s share of the market for milk as fixed and allotted by DFPEI; and
- (l) “quota credit system” means a mechanism established by DFPEI that allows milk producers to over ship a limited amount of milk compared to their quota allocation, referred to as over quota production credits; or to under ship a limited amount of milk compared to their quota, allocation, referred to as under quota production credits; and the over production and under production limits shall be established from time to time by the Board;
- (m) “seller” means a milk producer who transfers credits to other producers.
- (n) “violation” means a failure to meet standards by the accumulation of one or more infractions as determined in the DFPEI Violations and Penalties Order

Credit Transfer 3. Credits may be transferred between milk producers and any credit transfers shall be transacted under the conditions established by this order.

Credit Transfer Exchange

4. DFPEI shall operate a credit transfer exchange to facilitate credit transfers between milk producers. All transactions through the exchange shall be subject to the limits and conditions created in this order. Effective 1 January 2024 the credit transfer exchange shall be the only authorized mechanism for transferring credits between milk producers.

Credit Transfer Quantities and Limits

5. Credits may be transferred in quantities expressed in kilograms of butterfat, rounded to zero decimal places. The quantity of credits an individual milk producer may transfer at any one time shall be limited to an amount specified from

time to time by DFPEI. The specified maximum number of credits a milk producer may purchase or sell each month as of the date this order comes into effect shall be equal to not more than twenty-five percent (25%) of the production permitted by the milk producer's quota for the calendar month in which the transfer occurs. For this calculation, the production permitted for the calendar month the credit transfer occurs is calculated by multiplying the milk producer's current daily quota allocation by the number of days in the calendar month.

Reduced Transfer Limits for  
Quality Violations

6. Notwithstanding S.5 (above) the number of credits a milk producer may purchase in a month shall be reduced under the following circumstances:

(1) a milk producer that has incurred one (1) violation resulting in penalties in any 12 consecutive months, as specified in the current DFPEI Violations and Penalties Order, shall be limited to purchasing not more than twenty percent (20%) of the production permitted by the milk producer's quota for the calendar month following the month in which the violation occurs, and this limitation shall continue in succeeding months until the milk producer records two (2) consecutive months without incurring additional violations;

(2) a milk producer that has incurred two (2) violations resulting in penalties in any 12 consecutive months, as specified in the current DFPEI Violations and Penalties Order, shall be limited to purchasing not more than ten percent (10%) of the production permitted by the milk producer's quota in the calendar month following the month in which the second violation occurs, and this limitation shall continue in succeeding months until the milk producer records three (3) consecutive months without incurring additional violations;

(3) a milk producer that has incurred three (3) or more violations resulting in penalties in any 12 consecutive months, as specified in the current DFPEI Violations and Penalties Order, shall be prohibited from purchasing credits in the calendar month following the month in which the last violation occurs, and this prohibition shall continue in succeeding months until the milk producer records four (4) consecutive months without incurring additional violations.

Exchange  
established

7. DFPEI hereby establishes and will operate an exchange for the transfer of credits held by milk producers.

Eligible  
Participants

8. Only milk producers shall be eligible to participate in the exchange.

Offer prices

9. Milk producers may offer to sell or buy credits at any price unless a price limit is established by the Board.

Offer amounts

10. Milk producers may offer to buy or sell credits within the limits established by this order, or other limits as may be determined by the Board from time to time.

Offer forms

11. Offers to buy or sell credits on the exchange shall only be accepted if submitted through the current producer portal or on a form provided by, or approved by, DFPEI.

Exchange  
Opening

12. The exchange will be open to receive offers to buy or sell credits on the first business day of each month.

Offers

13. Offers shall specify the quantity of credits offered to buy or sell and the price of the offer.

- (1) A milk producer may submit a maximum of 3 bids per exchange.
- (2) Offers made through the producer portal must be received at the DFPEI office prior to midnight on the 18<sup>th</sup> day of each month to be included in the exchange.
- (3) Offers received by other means must be received at the DFPEI office not later than 4 PM on the 18<sup>th</sup> day of each month.
- (4) When the 18<sup>th</sup> day of a month falls on a weekend or statutory holiday, the deadlines for submitting bids shall be extended to the next business day.
- (5) Where a milk producer does not use the MIS portal to submit a bid DFPEI will accept a form delivered to the office, or submitted by facsimile, scan or other electronic means, provided the offer is signed or endorsed by another method, such as an email from the producer.
- (6) Offers made through the producer portal shall be accepted free of charge.
- (7) Offers submitted by any means other than the producer portal shall be subject to a processing fee of \$15.00 per transaction.

Changing offers

14. A milk producer may change or cancel an offer to buy or sell credits, provided that such change or cancellation is made through the producer portal or in writing and the notice of change or cancellation is received at the DFPEI office prior to the exchange deadlines specified in S.13.

Conflicting offers

15. A milk producer may only offer to buy or sell credits in any month. If a producer has submitted offers to buy and orders to sell quota in the same month, the orders shall be deemed in conflict and only the last offer submitted shall be included in the exchange.

Closing and clearing the Exchange

16. The exchange shall close as of midnight on the 18th day of the month of transfer. If the 18th day of the month falls on a weekend or a statutory holiday, bids must be received by the times established in S.13 and the exchange shall close at midnight on the next business day. No offers or changes to existing offers shall be accepted after the exchange has closed. DFPEI shall establish the clearing price, clear the exchange and publish the exchange results by noon on the second business day following the close of the exchange.

Clearing price

17. DFPEI shall determine the clearing price for the exchange in the following manner:

- (1) offers to sell credits shall be accumulated based on the prices at which the credits are offered for sale, from the lowest to the highest price offered;
- (2) offers to buy credits shall be accumulated based on the prices offered to purchase credits, from the highest price to the lowest price offered; and
- (3) the price at which the least difference between the accumulated number of credits offered for sale and the accumulated number of credits offered for purchase occurs shall determine the clearing price for the exchange.

Exchange does not clear

18. If no point is reached where the number of credits for sale is equal to, or nearly equal to, the number of credits offered for purchase, the exchange shall not clear, and no transactions shall be recorded for that exchange.

Distribution of Credits

19. DFPEI shall transfer credits to exchange participants as follows:

- (1) If the accumulated number of credits offered for sale and the accumulated number of credits offered to purchase at the clearing price are equal, then all offers to purchase at or above the clearing price shall be satisfied by all offers to sell at or below the clearing price;
- (2) If the accumulated number of credits offered for sale at or below the clearing price is greater than the accumulated number of credits offered for purchase at or above the clearing price, DFPEI shall distribute credits to all successful buyers using credits from all successful sellers on a rotating basis in 1.0 credit increments, except that the last iteration of distribution shall be made from successful sellers in the order in which bids were

received, until all successful offers to purchase are satisfied; and

(3) If the accumulated number of credits offered for purchase at or above the clearing price is greater than the accumulated number of credits offered for sale at or below the clearing price, DFPEI shall distribute all credits offered from all successful sellers to all successful buyers on a rotating basis in 1.0 credit increments, except that the last iteration of distribution shall be made to successful buyers in the order in which offers were received, until all successful sell offers are exhausted.

Payments to  
DFPEI

20. Payment for credits purchased and any related fees shall be deducted from each buyer's final payout for the month prior to the month of the exchange (i.e.- for clarity, this is the payment to producers issued on or about the 10<sup>th</sup> day of the month following the month of the exchange).

Payments to  
sellers

21. DFPEI shall issue payment to sellers, less any related fees, as a credit on the final payout to producers for the month prior to the month of the exchange.

Transfer of credits

22. DFPEI shall transfer the credits from sellers' accounts to buyers' accounts in the month of the exchange.

Insufficient Funds

23. If a buyer's payout is not sufficient to cover the cost of credits purchased, the buyer shall be invoiced for the remaining balance, which will be due not later than the 15<sup>th</sup> day of the month following the month of the exchange. Failure to settle the invoice by the due date shall result in the milk producer being suspended from purchasing credits until all arrears are received.

Accounting

24. DFPEI shall maintain accounting records for the operation of the exchange and shall submit audited financial statements on the records of the exchange at its annual meeting and make an accounting of its operation based on the fiscal year of Dairy Farmers of Prince Edward Island.

Assignment  
Prohibited

25. Credits may not be assigned to lenders. A milk producer's obligation created by an assignment of quota to a lender is not relieved by any credit transfer transaction.

Revocation

26. Dairy Farmers of Prince Edward Island Orders DFPEI 2021-06 is hereby revoked.

Commencement

27. This Order comes into force on the first day of October, 2023.

DATED at Charlottetown, Prince Edward Island, this 27th day of September 2023.



---

Gordon MacBeath, Chair



---

Connie Gorrill, Secretary