

**DFPEI 2024-04**  
**DAIRY FARMERS OF PRINCE EDWARD ISLAND**

BOARD ORDER: DFPEI 2024-04

EFFECTIVE: 15 August, 2024

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:

(1) “DFPEI” shall mean Dairy Farmers of Prince Edward Island;

(2) “dairy farm” means a farm where dairy animals are kept for milking and from which milk is marketed or sold for processing in a dairy plant or for human consumption, and includes all land, cows, buildings, and premises occupied or used in the production of milk;

(3) “force majeure” means adverse weather conditions or any other act of God, labour disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a party’s control;

(4) “immediate family members” means spouse, father, mother, son, daughter, sister, brother, grandfather, grandmother, grandson, or granddaughter of a person;

(5) “milk producer” means an individual, partnership, corporation, syndicate or business group that produces and markets milk for processing;

(6) “monthly quota” is the total quota for each month allocated to a milk producer, as determined by DFPEI;

(7) “province’s quota share” means the amount of quota determined as a part of processes created under the National Milk Marketing Plan and national or regional agreements for sharing the market for milk and milk products in Canada, as determined and allocated to the province by the Canadian Dairy Commission;

(8) “quota” means a share of the market for milk fixed and allotted by the Board to a milk producer;

(9) "quota days" are the number of days each month that are assigned to a milk producer for the purposes of determining total production quota for the month; and

(10) "quota exchange" is a mechanism to facilitate the sale and purchase of quota between milk producers as established in the DFPEI Quota Exchange Order;

(11) "total production quota" or "TPQ" is the calculated amount of quota allotted to each milk producer by the Board and measured in kilograms of butterfat per day, rounded to two decimal places.

Multiple quota holdings prohibited

3. A milk producer may hold an interest in one quota and shall not hold an ownership interest of any kind in any other quota allotted by the Board, including but not limited to sole ownership, partnership interest, beneficiary of a trust, or through direct or indirect ownership of shares in any incorporated entity that is a milk producer.

Minimum Quota Holding

4. A milk producer must hold a minimum of 10 kilograms of TPQ to sell milk. Exceptions may be considered by the Board only if a milk producer intends to market all milk from their farm through on farm processing.

Determining Quota Days

5. Quota days shall be determined by the number of days from, and not including, the last day milk was picked up in the previous month to the last day milk is picked up in the current month, except that, if milk was not shipped on the last scheduled pickup or pickups in a month, then:

(1) the number of quota days for the month shall equal the number of days from the last day milk is picked up in the previous month to the last day milk is scheduled for pick up from that milk producer in the current month; and

(2) the number of quota days in the following month shall be equal to number of days from the last day milk is scheduled for pick up in the current month to the last day milk is picked up in the following month.

Monthly quota

6. The monthly quota for a milk producer shall equal their TPQ multiplied by the number of quota days in that month, rounded to two decimal places

Credit system

7. Recognizing that milk producers' efforts to fill their TPQ shall result in production either above or below their monthly quota allocation, DFPEI shall allow milk producers to over ship or under ship milk to maximum limits established in this order or as amended by future orders of the board, which shall be recorded as over-quota production or under-quota production credits. The credit system is operated as follows.

(1) The limits established as of the effective date of this order allow a milk producer to oversell milk to a maximum of ten (10) times the milk producer's daily quota, or to undersell milk up to a maximum of fifteen (15) times their daily quota, calculated on a cumulative basis.

(2) When a milk producer first begins milk production the cumulative credit balance of the dairy farm shall be zero.

(3) In any month that a milk producer sells more than the amount of milk permitted by their monthly quota, the over-production shall be recorded as over-production credits, and the amount shall be added to the milk producer's cumulative credit balance.

(4) In any month that a milk producer sells less than the amount of milk permitted by their monthly quota, the under-production shall be recorded as under-production credits, and the amount shall be subtracted from the milk producer's cumulative credit balance.

(5) Credits may be transferred between milk producers by a credit transfer mechanism established in other DFPEI orders.

(6) When credits are transferred from a milk producer, their cumulative credit balance shall be increased by the number of credits transferred.

(7) When credits are transferred to a milk producer, their cumulative credit balance shall be decreased by the number of credits transferred.

(8) At the end of any month, if the cumulative balance of production credits is greater than zero the milk producer shall be deemed to be in an over-production credit balance.

(9) At the end of any month, if the cumulative balance of production credits is less than zero the milk producer shall be deemed to be in an under-production credit balance.

(10) At the end of each month, any over production that exceeds the cumulative maximum number of over-production credits permitted shall be declared as over-quota production. Over quota production shall not be included in credit calculations or be added to the milk producer's cumulative credit balance.

(11) Milk producers shall not be paid for over quota production and may be subject to over quota penalties as established from time to time by the Board.

(12) At the end of each month, any under production that exceeds the cumulative maximum number of under-production credits permitted shall be declared as under-quota production. Under-quota production shall not be included in credit calculations or be subtracted from the milk producer's cumulative credit balance.

Value of over  
production

8. The value of over-quota production accumulated by a milk producer shall equal the value of the blended component returns per kilogram of butterfat, protein and other solids paid to milk producers by DFPEI for the month in which the milk producer is financially responsible to DFPEI, multiplied by the kilograms of those components deemed over-quota.

Responsibility for  
over quota  
production

9. A milk producer shall be financially responsible to DFPEI for the value of all accumulated over-quota production. DFPEI may demand payment for over-quota production at any time if required by policy changes or any situation that would necessitate such demand.

Producer exiting  
the industry

10. A milk producer who exits the industry must pay DFPEI for their accumulated over-production credits, which shall be deemed to be over-quota production, when they cease production. DFPEI shall not approve a transfer of quota from a milk producer if DFPEI has not been compensated for the value of accumulated over-quota production attributed to the transferor.

Payment for over

quota production

11. A milk producer may compensate DFPEI for the value of accumulated over-quota production credits in any of the following manners:

(1) If a milk producer is exiting the industry by transferring his quota to a purchaser of his on-going dairy enterprise, 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 DFPEI.

(2) If a milk producer is exiting the industry by selling his interest in quota through the quota exchange, the milk producer may direct payment to DFPEI for the value of accumulated over quota production credits from the proceeds of quota sold.

(3) If a milk producer has not paid DFPEI for the value of accumulated over-quota production credits, DFPEI shall deduct the value of the accumulated over-quota production credits from payments due to the milk producer, including payments for milk production and payments for quota from the quota exchange.

Transfer of under quota production credits

12. A milk producer may only transfer under-quota production credits to a purchaser of their dairy farm.

Production incentives

13. DFPEI may, from time to time, offer milk producers production incentives to permit the delivery of additional milk required to meet short-term demand. Such incentives shall be temporary; shall be expressed in terms of additional quota days or kilograms of butterfat and shall not form part of a milk producer's quota holdings.

Payment of fees, service charges and levies

14. No milk producer shall sell milk without paying the fees, service charges or levies fixed by DFPEI and assessed to the milk producer.

Milk sold only from approved location

15. No milk producer shall sell or offer to sell milk produced by any other person or at any location other than the facility approved by DFPEI and inspected to ensure compliance with milk production standards. No milk producer shall sell or offer to sell milk that is not produced by cows they own, lease, or rent and that are located on the milk producer's dairy farm.

Processors receiving milk

16. No processor shall receive milk from a person who is not in possession of a registration number and a quota allotted by DFPEI.

Quota is the property of DFPEI

17. Quota is the property of DFPEI and interest in quota is not transferrable between milk producers or to other persons, except as provided for in DFPEI orders.

Non-production

18. DFPEI shall direct a milk producer's quota to be sold through the quota exchange if that milk producer does not sell milk for three consecutive calendar months. The Board may make exceptions where catastrophe relief has been requested or when a milk producer can demonstrate force majeure has frustrated their milk production efforts.

Catastrophes

19. A milk producer who has reduced deliveries or discontinued production temporarily due to a catastrophe may apply to the Board for temporary relief from DFPEI orders. The Board may grant such relief to a milk producer that has suffered a catastrophe as specified in a Catastrophic Event Quota Policy or Board order. A catastrophe may include:

- (1) severe injury, severe illness or death of the milk producer or the person(s) responsible for the dairy herd;
- (2) the sudden death or loss of a significant part of the milking herd;
- (3) destruction of the production facilities; or
- (4) any other catastrophic event not identified herein that prevents continued milk production and is approved by the Board for relief.

Lost under  
production credits

20. DFPEI shall not reinstate under-quota production credits lost by any milk producer for any reason.

Quota reserve

21. DFPEI may, at its discretion, hold an amount of the province's quota share in reserve.

Quota transfers

22. Quotas may be transferred between milk producers under the following conditions:

- (1) To a milk producer, who or which, purchases an interest in quota through a quota exchange operated by DFPEI as directed in a Quota Exchange Order.
- (2) To immediate family members by changing the family members recorded as owners or shareholders of the dairy farm, provided that production continues on an uninterrupted basis at the same dairy farm location. The registration number is not changed, just the names of the owners or shareholders listed with DFPEI.
- (3) To a new milk producer, excluding immediate family members, who acquires an on-going dairy farm and has acquired all land, buildings, dairy equipment, and the milking herd. Such transfers shall be conditional on the transferee selling all milk from the acquired dairy farm location for at least five years after the date of transfer or:
  - a. the Board shall direct the quota to be sold through the quota exchange; or
  - b. the on-going dairy farm may be transferred to a new milk producer as permitted in this order.
- (4) from a parent (for the purpose of this section "parent" includes grandparents) to a child who is a new or existing milk producer operating at a different dairy farm location, provided that no conditions or restrictions are in effect on the quota holdings of the parent or child pursuant to other sections of this order, or any other DFPEI order. Such transfers, commonly described as a "top-up", shall be subject to the following:
  - a. The parent must have started to produce and sell milk before the child starts production.
  - b. The parent must be a milk producer who has produced and sold milk continuously from their own dairy farm for not less than 10 years.
  - c. If a child operates a dairy farm as a partnership or a corporation, the child must own at least fifty percent (50%) of the dairy farm to be eligible for top up.
  - d. The parent may transfer quota to more than one child.
  - e. The total amount that may be transferred from a parent's dairy farm shall not exceed fifty percent (50%) of the total quota holdings of that milk producer on the date that the first transfer to any of their children occurs.
  - f. The parent may transfer to each child on a maximum of three occasions.
  - g. Child to parent top-up is not permitted.

h. Where a top-up occurs, the parent may never be added to the ownership of the child's dairy farm.

(5) all applications for transfers must be presented to the Board on a form provided by or approved by DFPEI, and must be received not later than the fifteenth day of the month prior to the month in which the transfer is proposed to be executed; and

(6) all transfers approved by the Board shall be executed effective as of the first day of the month following the month in which the transfer is approved, or the first day of another future month if selected by the applicants.

Lease equivalent to purchase

23. For the purposes of determining eligibility under section S. 22(3) for a transfer of quota, the Board may consider a long-term lease of a dairy farm (five years or more) equivalent to purchase.

Relocation of quota

24. A milk producer may relocate their milk production to a non-producing location, provided that no limitations on such a move are created by this or any other DFPEI order. When a quota is relocated to a new dairy farm, the milk producer is prohibited for five years from changing the ownership of the quota, including but not limited to, selling the quota, changing beneficiaries to a trust, adding new partners, or changing share ownership if the dairy farm is a corporation, except that:

(1) immediate family members may be added as new partners or shareholders in the dairy farm; and

(2) the quota may be sold through the quota exchange in accordance with S. 22(1) of this order.

Dissolution of A Partnership or Corporation

25. If a milk producer that is a partnership, or corporation held by more than one shareholder, is dissolved the quota may be divided between the partners or shareholders, as the case may be, in the amounts requested by the partners or shareholders in writing to DFPEI, provided that no conditions or restrictions are in effect on the quota holdings pursuant to other sections of this order, or any other DFPEI order. Any quota that is relocated to a new dairy farm as the result of such a re-allocation shall be subject to the conditions specified in section 24 of this order.

Prior Board approval required

26. All transfers and relocations of quota except those made through section S. 22(1) of this order are subject to prior approval by the Board. The Board may decline any quota transfer or relocation that it deems to be detrimental to the interests of the dairy industry. The Board may also impose conditions on any transfer or relocation that it deems appropriate.

Processor reports

27. Each dairy processor shall report all purchases of milk from each milk producer and shall include records of any payments for that milk and all monies deducted from those payments. Reporting shall be accomplished by a method acceptable to DFPEI.

Processor deductions

28. Each dairy processor shall deduct from monies payable to a milk producer any levies, fees, penalties, or service charges as directed by DFPEI, and shall remit the said levies to DFPEI by the twentieth of the month following the month the milk was delivered.

Establishment of provincial quota

29. From time to time the Board shall determine the amount of quota to be allocated to milk producers to utilize the province's quota share. This determination may be made as part of processes established in federal-provincial agreements for sharing milk markets, revenues, and costs.

Quota adjustments

30. The Board may adjust quotas allotted to milk producers at any time to reflect an increase or decrease in the province's quota, market conditions or production variances, based on the percentage of their quota holdings compared to the total province's quota holdings before the adjustment.

Suspension of quota

31. The Board may suspend all or part of a milk producer's quota where the milk producer has contravened any Board order. Such suspension may be followed by direction for the quota to be sold through the quota exchange.

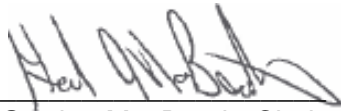
Revocation

32. Dairy Farmers of Prince Edward Island orders DFPEI 2012-07, 2013-06, and 2015-06 are hereby revoked.

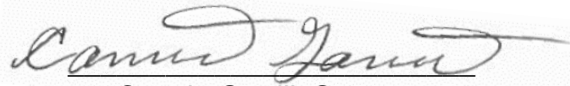
Commencement

33. This Order comes into force on 15th day of August, 2024.

DATED at Charlottetown, Prince Edward Island, this 31<sup>st</sup> day of July 2024.



Gordon MacBeath, Chair



Connie Gorrill, Secretary