

DFPEI 2016-04

DAIRY FARMERS OF PRINCE EDWARD ISLAND

ORDER: DFPEI 2016-04

EFFECTIVE: 1 August 2016

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:

NEW ENTRANT PROGRAM ORDER

Application

1. This Order provides for the establishment of a program, hereinafter referred to as the “program”, to provide assistance to persons purchasing quota for the purpose of starting new dairy farms.

Definitions

2. The words herein shall have the meanings as found in the Prince Edward Island *Natural Products Marketing Act* and the *Dairy Farmers of Prince Edward Island Regulations* made thereunder, unless differentiated herein or as hereinafter defined:

- (a) “daily quota” means the amount of kilograms of butterfat assigned by the Board to a registered quota holder that may be produced in one day, rounded to one decimal;
- (b) “immediate family members” means spouse or common law spouse, father, mother, son, daughter, sister, brother, grandfather, grandmother, grandson or granddaughter of a person;
- (c) “new entrant” means a person who is becoming an independent milk producer for the first time by starting a new dairy farming operation and who has been selected to participate in the program;
- (d) “existing dairy farm” means an existing and operational dairy farm, and may include land, buildings, dairy equipment, and all of the milking herd;
- (e) “quota” means a producer’s share of the market for milk products as determined by the Board and allocated to a producer by the Board;
- (f) “quota account” means the record of the amount of daily quota for which a milk producer has obtained production rights;

- (g) “quota loan” means an amount of quota loaned by the Board to a new entrant, subject to the terms and conditions of the program;

Selection
Committee

3. New entrants shall be selected by a committee designated by the Board, which shall be referred to as the “selection committee”. The selection committee shall review all applications to ensure the proposals meet the minimum requirements established by this Order and any other condition imposed by the Board. The selection committee may require an interview with any applicant to clarify the application, or to request additional information it deems necessary for the selection process.

Application and
Selection Process

4. The Board will accept applications to the program on a monthly basis. Applications shall be presented on a form designated by the Board and shall include all documentary evidence required to ensure compliance with this order. For applications to be reviewed by the selection committee they must be received at the Board office by the close of business on the last business day of a month. All applications received shall be processed in the following manner:

(a) DFPEI staff shall review all applications received not later than the 10th business day of the month following the month in which the application was received. If additional information or documentation is required, the applicant shall be notified and may submit the required amendments by the 15th of that month.

(b) The selection committee shall review all applications submitted not later than the last business day of the month following the month in which the application was submitted. The selection committee shall determine if applications meet the criteria established in this order for participation in the program.

(c) In the event an application is determined to be incomplete or otherwise unacceptable, the application shall be rejected and the applicant may reapply.

(d) In the event more than one applicant is approved by the selection committee in a calendar month, the Board shall conduct a random draw to determine the order in which approved applicants will enter the program.

(e) Approved new entrants shall be recorded in a list of approved new entrants. Newly selected new entrants shall be added to the

list subsequent to any previously selected new entrants and in the order selected in a random draw if one was conducted. The order of listing shall be used to establish the date each new entrant shall be permitted to start in the program.

(f) The selection committee or the Board may place conditions on any approval granted to a new entrant.

(g) The selection committee's decision regarding an application is final.

Qualifying Criteria

5. The following criteria must be met for an applicant to be selected for participation in the program:

(a) The applicant must be a new milk producer entering the dairy industry who plans to immediately establish an independent dairy farming enterprise, utilizing at least 24 kilograms of daily quota, inclusive of the quota loan provided through the new entrant program.

(b) The applicant must confirm in writing that they have never:

- i. been a dairy producer;
- ii. held an equity interest in a dairy farm or a business entity that owned or operated a dairy farm; or
- iii. held an interest in quota or any business entity that held an interest in quota, as defined in this order.

(c) Applicants must submit a 5-year business plan for the operation of the new dairy farm.

(d) Applicants must submit proof of approval for financing the new dairy farm provided by a recognized lending institution, or must otherwise document and prove the financial resources of the applicant to fulfill the financing requirements of the business plan.

(e) Applicants may be approved to operate from new or existing dairy farm facilities. Applications proposing to use a facility previously operated as a dairy farm by an immediate family member of the applicant or by a corporation in which an immediate family member of the applicant held an interest shall not be eligible unless the facility has been out of dairy production for at least two years.

(f) Applicants must provide all information through documentation and other evidence requested by the Board to establish their eligibility for inclusion in the program.

Earliest Starting
Date Specified by
the Board

6. A new entrant shall be eligible to receive a quota loan after a date specified by the Board. If a new entrant purchases quota or commences operation of a dairy farm prior to this specified date, they shall be disqualified from the program

Start Date
Designated by
the New Entrant

7. A new entrant shall designate a start date for their farm to commence purchasing quota. The designated start date shall be no more than one year after the earliest starting date specified by the Board. If the new entrant does not acquire any quota within one year of their specified earliest starting date, they shall be disqualified from the program and shall not be eligible to receive a quota loan or to reapply to participate in the program.

Obtaining Quota

8. New entrants who qualify and are accepted in the program are entitled to receive a loan of twelve to sixteen daily kilograms of quota. They must obtain an interest in at least five kilograms of quota to receive any portion of their quota loan. When applying, the new entrant shall declare their planned method for obtaining an interest in quota. The method of obtaining quota may be changed at the request of the new entrant. A new entrant may obtain an interest in quota by one of the following options.

(a) Purchasing through the monthly quota exchange.

(i) If the new entrant chooses to acquire an interest in quota through the monthly quota exchange, they shall have priority access to quota offered for sale on the exchange for twelve-months beginning the month of their first acquisition of an interest in quota, or until they have purchased twelve kilograms of daily quota, whichever occurs first.

(ii) Any new entrant who does not obtain at least twelve kilograms of daily quota by the end of the twelve month quota acquisition period, and who has not bid on every quota exchange during that period, shall be disqualified from the program and any loaned quota shall be removed from the producers quota account.

(iii) Any new entrant who has not obtained twelve kilograms of daily quota but who has participated in all twelve quota exchanges beginning with the month they first acquired an interest in quota may be granted an extension of that priority if the Board considers their bids have been reasonable in light of the

exchange clearing prices during the twelve-month acquisition period.

(b) Acquiring an existing dairy farm. A new entrant may purchase an ongoing dairy farm by any means provided for in an order of the Board or approved by the Board.

(i) If the dairy farm purchased holds an interest in less than twelve kilograms of daily quota, the new entrant may acquire an interest in the additional quota required to meet their approved business plan under the terms specified in S.8. (a).

(ii) In any event, the maximum amount of quota in which a new entrant may acquire an interest through the purchase of an existing dairy farm is nineteen kilograms of daily quota. This means that the maximum amount of quota that is permitted to be acquired through the purchase of an ongoing dairy farm and a new entrant quota loan shall be thirty-five kilograms in the month a new entrant assumes ownership of an ongoing dairy operation.

(c) After a new entrant has obtained twelve kilograms of quota through the exchange, or has acquired an existing dairy farm, they may participate in the monthly quota exchange with no priority and no limit on future quota purchases, unless such a limit is created by the Board at a future date.

(d) When a new entrant has obtained at least five kilograms of daily quota they shall, upon their request, be loaned an equal amount of daily quota to a maximum of sixteen kilograms. The quota loan shall be increased in amounts equaling the amounts of quota obtained by the new entrant until the maximum quota loan is advanced.

Minimum Quota
Requirements

9. New entrants who qualify and are accepted in the program must maintain an interest in at least twelve kilograms of quota to continue participation in the program.

(a) Quota decreases directed by the Board shall be applied to the new entrant's quota account. Board directed quota decreases resulting in the amount of quota in which the new entrant has acquired an interest being reduced to less than sixteen kilograms of daily quota shall not reduce the amount of quota loaned to the new entrant.

(b) A new entrant may offer to sell quota in which they hold an interest at any time. However, if a new entrant sells the rights to quota that reduces the amount in which they hold an interest to an

amount that is less than sixteen daily kilograms and more than twelve daily kilograms, their quota loan shall be reduced by corresponding amounts.

(c) When any part of a quota loan is reduced by a sale of quota initiated by a new entrant, the portion of the loan retired shall not be re-issued to the new entrant if they subsequently obtain an interest in more quota.

(d) If a new entrant sells quota such that the amount of quota in which they hold an interest is reduced to less than twelve kilograms of daily quota, the new entrant will be deemed in default and shall be subject to the conditions specified in Section 17 herein.

Period of Loan

10. (a) The full amount of the quota loan shall be granted for a maximum period of ten years.

(b) Beginning the first month of the eleventh year of participation in the new entrant program, the quota loan shall be retired at the rate of 0.1 kilogram per month for ten consecutive months, thereby retiring a total of one kilogram of quota per year. This shall be repeated each year until the quota loan is fully retired, which will end the new entrant's participation in the program.

(c) New entrants shall be granted priority access to 0.1 kilograms of quota per month on the quota exchange during the reimbursement period.

(d) New entrants shall be granted a deferral of the repayment due each month if no quota is available for purchase on the exchange, provided that they bid for at least 0.1 kilogram of daily quota every month in the year that the deferred payment is due. Such deferrals may be carried to the end of the repayment period, effectively granting an extension of the repayment period until all deferred repayments are complete.

Joint Applications

11. Joint applications by two or more persons are permitted. However, new entrants approved on a joint application will be eligible for only one quota loan under the program. All applicants who present a joint application must qualify as new entrants as directed in this order.

Exclusions

12. A person or corporation shall be excluded or disqualified from the program if they:

(a) acquire an on-going dairy enterprise from an immediate family member;

(b) acquire an on-going dairy enterprise from a corporation in which an immediate family member has or had an equity interest in the preceding twenty-four months; or

(c) have operated or held an interest in a dairy farm or dairy quota at any time in the past.

Number of
Participants

13. The number of new entrants accepted in the program shall be determined by the Board, which shall consider the current state of the dairy industry, the utilization of quota by existing producers, estimates of the future direction of the dairy industry and any agreements between the Board and other dairy production regulatory organizations. A maximum of one new entrant shall be allocated a quota loan under the program each year, provided that conditions within the dairy industry merit continued operation of the program and do not impact negatively on existing dairy producers in the province. The Board may, in its sole discretion, revise, suspend or cancel the program and no person who has been accepted as a new entrant but not allocated a quota loan shall have any recourse against the Board as a result of changes to the program.

Withdrawal from
the Program

14. A new entrant may withdraw from the program by notifying the Board in writing. If the withdrawal occurs before the designated starting date, then the new entrant's name shall be removed from the list of new entrants.

Compliance with
Regulations

15. The new entrant must comply with all regulatory requirements applicable to the operation of a dairy farm, including but not limited to those established under the *Natural Products Marketing Act*, R.S.P.E.I. 1988, Cap. N-3 and any applicable regulations thereunder, including the *Dairy Farmers of Prince Edward Island Regulations*, and all Orders of the Board. Failure to comply with such regulations shall be grounds for immediate declaration of program default and the new entrant shall be subject to any action the Board deems appropriate for that default, as specified in S.17 of this order.

Limitations

16. Quota loaned to a new entrant under this program may not be assigned to, or encumbered by, a third party as security for financing, or for any other reason. The rights to quota loaned under the program may not

be sold or transferred, except that the new entrant may lease their interest on a monthly basis as provided for in an order of the Board.

Program Default

17. In the event that a new entrant fails to meet all the criteria for participation outlined in this order, or fails to honour any condition specified at the time of selection to the program, the new entrant shall be declared in default of the requirements of the program. A new entrant determined by the Board to be in default under the program shall be subject to such action as determined by the Board to be appropriate, which may include termination of participation in the program and immediate revocation of the quota loan.

Commencement

18. This Order comes into force on the 1st day of August 2016.

19. Effective this date, new applications shall no longer be accepted under DFPEI Order 2011-09.

DATED at Charlottetown, Prince Edward Island, this 21st day of July 2016.

<Original signed by>

Harold MacNevin, Chair

<Original signed by>

Ronald Maynard, Secretary