

**DFPEI 2021-07**

**DAIRY FARMERS OF PRINCE EDWARD ISLAND**

**ORDER: DFPEI 2021-07**

**EFFECTIVE: 1 August 2021**

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 assist 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) “DFPEI” means Dairy Farmers of Prince Edward Island;
- (c) “existing dairy farm” means an existing and operational dairy farm, and may include land, buildings, dairy equipment, and all of the milking herd;
- (d) “immediate family members” means spouse or common law spouse, father, mother, son, daughter, sister, brother, grandfather, grandmother, grandson or granddaughter of a person;
- (e) “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;
- (f) “New Entrant Selection Committee” means a committee appointed by the Board to determine which new entrant applicants shall be admitted to the program;
- (g) “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;

- (h) “quota account” means the record of the amount of daily quota for which a milk producer has obtained production rights; and
- (i) “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 the New Entrant Selection Committee, (hereinafter “the committee”). The 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 committee may require an interview with an 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 between July and September each year. Applications shall be presented on a form designated by the Board and shall include all documentary evidence required to ensure compliance with this order. All applications are subject to a non-refundable fee of one hundred dollars, which shall be submitted with the documentation. For applications to be considered by the committee they must be received at the Board office by the close of business on the last business day of September each year. All applications received shall be processed in the following manner.

(a) DFPEI staff shall review all applications received not later than the 15th day of October in the year after the application was received. If additional information or documentation is required, the applicant shall be notified and may submit the required amendments by the 31<sup>st</sup> day of October.

(b) The committee shall review all applications submitted by the last business day of November. The 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 in future years.

(d) In the event more than one applicant is approved by the committee, a random draw shall be conducted to determine the order in which approved applicants will be listed to enter the program.

(e) Approved applicants shall be added to a list approved for admission to the program. Approved applicants shall be added to the list after any previously selected new entrants and in the order selected in the random draw if one was conducted. When an applicant is added to the list, they become a new entrant. The order of listing shall be used to establish the date each new entrant shall be permitted to start in the program.

(f) A maximum of three new entrants may be listed at any time. If an applicant is approved but is not listed because the maximum number has been reached, that applicant may apply again in future years.

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

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

#### 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 40 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 that demonstrates financial viability of the new dairy farm.

(d) Applicants must submit documentation proving financing approval for the new dairy farm by a recognized lending institution, or must document and prove other financial resources are available to the applicant that 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

6. New entrants shall be eligible to receive a quota loan on or after August first of the year designated for their entry to the program. If a new entrant purchases quota or commences operation of a dairy farm prior to this date, they shall be disqualified from the program.

Start Date  
Selected by  
the New Entrant

7. A new entrant shall select 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. If the new entrant does not acquire any quota within one year of their 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 twenty 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) A new entrant may acquire an interest in quota through the monthly quota exchange. They shall have priority access to quota offered for sale on the exchange for the twelve-month period beginning the month of their first bid to purchase on the exchange, or until they have purchased twenty kilograms of daily quota, whichever occurs first.

(ii) Any new entrant who does not obtain at least twenty kilograms of daily quota by the end of the twelve-month priority 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 that producer's quota account.

(iii) Any new entrant who has not obtained twenty kilograms of daily quota but who has participated in all twelve quota exchanges during their priority purchase period may be granted an extension of that priority if the Board considers their bids have been

reasonable considering 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) The maximum amount of quota in which a new entrant may acquire an interest through the purchase of an existing dairy farm is thirty kilograms of daily quota. This means that the maximum amount of quota that is permitted to be acquired in the month the quota is transferred to the new entrant through the purchase of an ongoing dairy farm and a new entrant quota loan shall be fifty kilograms.

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

(iii) A new entrant who has purchased an existing dairy farm may begin bidding to acquire additional quota through the quota exchange in the month following the transfer of quota from the existing farm.

(c) After a new entrant has obtained at least twenty kilograms of daily quota they may participate in the monthly quota exchange with no priority and no limit on future quota purchases.

Minimum Quota  
to Start  
Production

9. When a new entrant has obtained an interest in at least five kilograms of daily quota they may be loaned an equal amount of daily quota to the amount in which they hold an interest until their quota loan reaches a maximum of twenty 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  
Requirement

10. New entrants who qualify and are accepted in the program must maintain an interest in at least twenty 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 twenty kilograms of daily quota shall not reduce the amount of quota loaned to the new .

(b) When a new entrant's interest in quota, exclusive of their quota loan, falls below twenty kilograms of daily quota due to a quota decrease directed by the Board, that new entrant must bid on the quota exchange each month until they have restored their quota holding to the twenty-kilogram minimum holding.

(c) A new entrant may offer to sell quota in which they hold an interest at any time provided that the amount of quota held, exclusive of the quota loan, remains equal to or greater than twenty kilograms.

(d) When a new entrant's quota holding is reduced below the twenty-kilogram minimum holding by a sale through the exchange, then the new entrant's quota loan shall be decreased by a corresponding amount.

(e) Any portion of a quota loan retired because of a sale initiated by the new entrant shall not be re-issued if the new entrant subsequently obtains an interest in more quota.

(f) If a new entrant sells quota such that the amount of quota in which they hold an interest is reduced to less than twenty kilograms of daily quota, the new entrant will be deemed in default and shall be subject to the conditions specified in Section 18 herein.

#### Period of Loan

11. (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 until the quota loan is fully repaid

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

#### Joint Applications

12. 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

13. 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 holds or has held 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

14. 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. 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 because of changes to the program.

Withdrawal from  
the Program

15. A new entrant may withdraw from the program by notifying the Board in writing. If the withdrawal occurs before the earliest starting date, then the new entrant's name shall be removed from the list of new entrants. When a new entrant withdraws from the program, the remaining listed new entrants shall be offered to advance their program starting year, in the order that they were selected for the program.

Compliance with  
Regulations

16. New entrants 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

17. 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 transfer production credits created by the quota loan on a monthly basis, as may be permitted by the Board. Loaned quota shall not be subject to general increases or decreases directed by the Board.

Program Default

18. 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

19. This Order comes into force on the 1st day of August 2021.

Suspension

20. Effective immediately, new applications shall no longer be accepted under DFPEI Order 2016-04.

DATED at Charlottetown, Prince Edward Island, this 30<sup>th</sup> day of June 2021.

<Original signed by>

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Gordon MacBeath, Chair

<Original signed by>

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Amber Craswell, Secretary