

ORDER NO. 2011-03
AN ORDER ESTABLISHING THE MILK PENALTY FUND UNDER THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**MILK PENALTY FUND ORDER**")

BE IT ENACTED pursuant to

- Sections 11(e,s,t,w,x) and 12 of the New Brunswick Regulation 2002-85 *Milk Plan Administration Regulation – Natural Products Act*; and
- Section 62 of New Brunswick Regulation 2010-19 – *Milk Quality Regulation – Dairy Products Act*, and
- New Brunswick Farm Products Commission Order – 2010-05 – Milk Quality & Premises Penalty Order, and

DAIRY FARMERS OF NEW BRUNSWICK (hereinafter called the "Board") in its exercise of its Federal and Provincial powers, where applicable, in whole or in part, concurrently and in combination hereby repeals Order 2009-07 – Milk Penalty Fund Order and replaces it with:

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- 1) **DEFINITIONS:** The terms referenced herein have the same meaning as given in the by-law, act, regulation, order or agreement in which the term was originally defined. If a term originates herein the term will be defined below.
- 2) **ESTABLISHMENT AND ADMINISTRATION**
 - a) The Board does hereby establish and shall maintain a Milk Penalty Fund (the "Penalty Fund") to be used to recognize Producers for the quality of their product and to assist Producers in all aspects that the Board believes will improve the quality of the milk produced within New Brunswick;
 - b) The Penalty Fund shall be administered by the Board as follows:
 - i) All monies constituting the Penalty Fund, pending the investment or application thereof, shall be deposited to the credit of a special account of the Board in a chartered bank or a duly licensed trust company;
 - ii) All monies of the Penalty Fund that are not immediately required for the purposes thereof may be invested in the manner in which trustees are authorized to invest trust funds under the Trustees Act of New Brunswick;
 - iii) The accounts of the Penalty Fund shall be audited annually by a chartered accountant;
 - iv) The assets of the Penalty Fund shall not be used as collateral for any loans negotiated by the Board or any other person; and
 - v) Upon request, the Board shall submit to the Commission, statements as to the status of the Penalty Fund and such additional information as the Commission shall direct from time to time;
 - c) The Board and the Commission may pay from the Penalty Fund:
 - i) Amounts involved in the administration of the Penalty Fund; and
 - ii) Amounts associated with the Approved Programs listed in section 4 herein; and

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d) The Penalty Fund hereby established shall be maintained at such level or levels as to principal amount as the Board and the Commission shall determine from time to time.

4) LEVY

a) Subject to Clause 2(b) hereof, the Board is authorized to levy and collect such amounts from Producers associated with milk quality infractions as directed by the Commission;

b) No such amount shall be levied and collected pursuant to Clause 2(a) hereof without the prior approval of the Commission; and

c) Any amounts levied as above shall be deducted from monies due and payable by the Board to Producers.

5) APPROVED PROGRAMS The following quality incentives have received approval from the Commission:

a) EXCELLENT QUALITY MILK

i) Criteria to qualify

Standard Plate count less than 5,000 bacteria/ml for 11 of 12 months;

No Farm Premise penalty within the dairy year;

Somatic Cell count less than 200,000 ml for 11 of 12 months; and

No inhibitor or added water infractions within last dairy year;

ii) Producers meeting the above criteria will be awarded the following:

(a) Complimentary DFNB Annual Meeting Banquet tickets along with a complimentary night's stay at the hotel where the DFNB Annual Meeting is taking place.

(b) \$ 1,000.00 cash award and trophy to the Producer with the best combined rank for Somatic Cell Count and Standard Plate Count.

(c) \$ 500.00 cash award and trophy to the producer ranked 1st in Somatic Cell Count

(d) \$ 500.00 cash award and trophy to the producer ranked 1st in Standard Plate Count

(e) \$ 500.00 cash award to all Producers who meet the "Milk Quality" criteria.

iii) Recognition will be given to Producers who have repeatedly met the Excellent Quality Milk criteria beginning with the 2006/07 dairy year by affixing their names on plaques in accordance with the following achievements:

(a) For having met the criteria five times – The farm's name will be included on the 5 year commemorative plaque

(b) For having met the criteria ten times – The farm's name will be included on the 10 year commemorative plaque

(c) For having met the criteria 15 times – The farm's name will be included on the 15 year commemorative plaque

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- b) MOST IMPROVED QUALITY MILK - All Producers would be ranked according to the level of their milk quality as it relates to Standard Plate count and Somatic Cell count and this ranking would be compared to that of the previous year's. A One Hundred Dollar (\$100.00) cash award to each 10 winners who improved the most over the previous year.
- c) RE-RE-EARN PENALTIES PROGRAM: Producers who succeed in obtaining milk quality test results as listed below during a 12 consecutive month period shall be paid an amount equivalent to the Somatic Cell and Standard Plate and Lab Pasteurisation Count Penalties that they paid in the previous 24 months.
 - i) No less than 11 acceptable Somatic Cell Count test results
 - ii) No less than 11 acceptable Standard Plate Count test results
 - iii) No less than 11 acceptable Lab Pasteurisation Count test results
 - iv) No infractions for Added Water
 - v) No infractions for Inhibitors
- d) MILK QUALITY TECHNICIAN VISIT
 - i) Re-active funding: A Producer who has been subject to a milk quality penalty will have the ability to access \$100.00 from the Penalty Fund to offset once per year the cost of a visit from a milk quality technician; and
 - ii) Pro-active funding: A Producer who has been advised of a second or subsequent milk quality infraction prior to a penalty being assessed would be allowed to offset once per year the cost of a visit from a milk quality technician to a maximum of \$500.00.

5) FUTURE PROGRAMS:

Subject to the approval of the Commission, funding may be used for programs not otherwise identified in this section that serve to improve the quality of milk in New Brunswick.

6) CLAIMS

The Board may make a claim on the Penalty Fund for the programs identified in Section 4 herein by filing supporting documentation with the Chair of the Board or the Chair's designate and the Chair of the Commission.

- a) Such claims shall be limited by the total monies available in the Penalty Fund less any future financial obligations that could result from Producers re-earning their penalties as well as any other obligations that may be anticipated.

7) AMENDMENT

- a) This Order may not be repealed or amended without the approval and consent of the Commission.

8) DISSOLUTION

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- a) Upon the repealing of this Order and the dissolution of the Penalty Fund and after payment of all debts and liabilities of the Penalty Fund, the monies remaining shall be used by the Board to improve milk quality. Such monies may only be expended by the Board with the prior approval of the Commission.

This Order comes into effect April 1, 2011

Chairman

Secretary/Manager

APPROVED by the New Brunswick Farm Products Commission

Chairman

Secretary