

ORDER 2011-04
AN ORDER DEFINING THE MILK MARKETING PROCESS UNDER THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA ORDER**")

PURPOSE: To establish the rules requiring that Milk to be marketed or produced and marketed on a Daily Quota basis; the prerequisites to holding Daily Quota, the means of acquiring Daily Quota, obligations to maintaining Daily Quota, the privileges of Producers holding Daily Quota and the Classification of Daily Quota as Saleable and Non-Saleable.

WHEREAS the Board, inter alia, is vested with the power to make such orders as are considered by the Board necessary or advisable to regulate effectively the marketing or production and marketing of Milk in New Brunswick.

NOW THEREFORE BE IT ENACTED pursuant to

- *Milk Plan Order – Dairy Farmers of New Brunswick and all of its Orders*, and amendments or successor thereto;

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 2010-05 – Daily Quota Order and replaces it with:

2011-04
DAILY QUOTA ORDER

1) DEFINITIONS

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 in this Order the term will be defined below.

2) PREREQUISITES TO HOLDING QUOTA

Prior to the allotment of Quota, a person must be assigned a Producer Number by the Board. To obtain a Producer Number from the Board, the person must:

- i) make application to the Board and the Commission on prescribed forms;
- ii) have farm premises which meet the standards set by the Commission for Milk production, and which have been approved by the Commission before the shipment of Milk commences; and
- iii) have installed a calibrated bulk milk tank of sufficient capacity to store more than two and one half days supply of Milk in the peak production period of his herd of cows; and
- iv) have a driveway that meets accessibility policy as adopted by the Board.

ORDER 2011-04
AN ORDER DEFINING THE MILK MARKETING PROCESS UNDER THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA ORDER**")

3) ALLOTING DAILY QUOTA TO PRODUCERS

A Producer who does not have an allotment of Daily Quota must choose one of the three transfer methods set out in the Daily Quota Transfer Order to obtain his or her opening allotment of Daily Quota from other Producers.

A Producer who is deemed by the Board to be a New Entrant can only use the Quota Exchange as set in the Daily Quota Transfer Order to obtain his or her opening allotment of Daily Quota from other Producers.

A Producer who has an allotment of Daily Quota can only affect an increase to his or her allotment of Daily Quota by successfully purchasing Daily Quota on the Quota Exchange as set out in the Daily Quota Transfer Order.

A Producer who has an allotment of Daily Quota can only affect a reduction to his or her allotment of Daily Quota by either successfully selling all or part of their Saleable Daily Quota on the Quota Exchange or by transferring 100% of their Daily Quota as part of an On-Going Farm Operation Transfer or by transferring less than 50% of their Daily Quota as part of a New Producer Transfer in accordance with the Daily Quota Transfer Order.

If necessary, the Board will increase or decrease the Daily Quota excluding Temporary Daily Quota allotted to all Producers on an equal percentage basis to meet New Brunswick's share of the national and/or P5 market requirements.

4) PRIVILEGES PROVIDED TO PRODUCERS HOLDING QUOTA

The Board requires a Producer to produce Milk or produce and market Milk on a Daily Quota basis. The Board:

- i) Will fix and allot only one Daily Quota for each Producer to be used solely for that Producer upon terms and conditions which include but are not limited to, the following:
 - (1) a Producer who has been allotted a Daily Quota shall deliver only Milk produced by cows located on his farm;
 - (2) Daily Quota may be transferred from one Producer to another Producer in accordance with the Board Daily Quota Transfer Order and upon approval of the Board
 - (3) A Producer who has been allotted Daily Quota shall accrue and transfer Credits upon terms and conditions determined by the Board.
- ii) Will cancel or suspend the Daily Quota upon the cancellation, suspension, or expiration of the Provincial License issued by the Commission.

A Producer must notify the Board of any plans to re-locate their Daily Quota to a farm having a different Global Position System coordinate than the current farm where the Daily Quota is located and obtain a written approval from the Board, which approval may be denied at the absolute discretion of the Board.

Producers wishing to enter into a Joint Venture as defined in the Board's Joint Venture Policy must apply and obtain the Board's prior approval prior to the Joint Venture Policy

ORDER 2011-04
AN ORDER DEFINING THE MILK MARKETING PROCESS UNDER THE
DAIRY FARMERS OF NEW BRUNSWICK
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being abolished December 31, 2011. The Board will reject any application for a Joint Venture if any of the Producers applying to enter into the Joint Venture has sold more than 25% of his or her respective Daily Quota holdings in the 12 months prior to the date the application is submitted.

A Producer must obtain written approval from the Board to hold Daily Quota in excess of 200 kilograms and every increment of 100 kilograms thereafter, which approval may be denied at the absolute discretion of the Board.

5) OBLIGATIONS TO MAINTAIN QUOTA

A Producer who has been allotted a Daily Quota by the Board and who contravenes the Board Orders, policies and procedures may have all or part of such Daily Quota suspended or cancelled by the Board.

A Producer must hold a minimum of ten (10) kilograms of Daily Quota of which one (1) kilogram must be Saleable Daily Quota for the Board to give direction to have his Milk picked up. In the event that a Producer's Daily Quota is reduced, as a result of the Producer selling through the Quota Exchange or as result of overall general reductions in Quota, to within a range 0.01 and 9.99 kilograms inclusive, the Board will direct that the Milk be picked up for one month, after which pick ups will cease and the Producer shall take corrective action to rise above the range. If corrective action is not undertaken the Producer has six months to transfer his Daily Quota. If the Producer is unable to transfer his Daily Quota the Producers Daily Quota will be cancelled or suspended at the discretion of the Board.

Should one of these Producers' hold less than ten (10) kilograms but more than two (2) kilograms of which one (1) kilogram must be Saleable Daily Quota at the time this policy came into effect on August 1, 2009, the Board will continue to give direction to have his Milk picked up for as long as the Producer maintains his Daily Quota above 2 kilograms. Should the Producer's Daily Quota fall within a range of 0.01 and 1.99 kilograms inclusive, the Board will direct that the Milk be picked up for one month, after which pick ups will cease and the Producer shall take corrective action to rise above the range. If corrective action is not undertaken the Producer has six months to transfer his Daily Quota. If the Producer is unable to transfer his Daily Quota the Producers Daily Quota will be cancelled or suspended at the discretion of the Board.

A New Producer acquiring Daily Quota on the Quota Exchange who is unsuccessful entering into Production within 90 days of acquiring such Quota (subject to further extension by the Board), shall be required to transfer his Daily Quota on or before the third consecutive Quota Exchange following the 90 day period. If he is unable to transfer his Daily Quota in accordance with this paragraph the New Producers Daily Quota will be cancelled or suspended at the discretion of the Board.

ORDER 2011-04
AN ORDER DEFINING THE MILK MARKETING PROCESS UNDER THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA ORDER**")

A Producer must produce a sufficient quantity of Milk to provide for satisfactory cooling, sampling or measurement and furthermore must ship at least 25% of his Monthly Quota each month. Failing this, at the direction of the Board, the Producer is required to appear before the Board to give reasons why the Daily Quota should not be cancelled or suspended by the Board.

A Producer who has ceased Milk deliveries must transfer his Daily Quota by way of Daily Quota Transfer Order within six months from the payment for his last delivery of Milk. If he is unable to transfer his Daily Quota in accordance with this paragraph the Producers Daily Quota will be cancelled or suspended at the discretion of the Board.

A Producers or New Producers first shipment of Milk, or upon a Producer resuming his regular shipments of Milk, must ship no more than two and one half days' Milk Production.

A Producer who has a Due Board over 60 days shall be required to appear before the Board to give reasons why the Due Board is not paid and why the Daily Quota should not be cancelled or suspended by the Board for failure to pay.

6) CLASSIFICATION OF DAILY QUOTA AS SALEABLE DAILY QUOTA AND NON-SALEABLE DAILY QUOTA

After extensive research, consultation, consideration and advice, the Board, in exercising its vested powers to fix and allot Quota on such basis as the Board considers proper, to regulate effectively the marketing or the production and marketing of Milk in New Brunswick, and to regulate the transfer of Quota upon such conditions and procedures on the transfer of Quota as the Board considers proper, determines it necessary for the Board to establish a mechanism to implement Non-Saleable Daily Quota as a classification of Daily Quota.

The implementation, classification, allocation, increase and reduction of Non-Saleable Daily Quota will take place as follows:

- i) On June 1, 2007, from the Board's existing Non-Saleable Daily Quota the Board will allot to each Producer Non-Saleable Daily Quota in an amount equal to 3.44 per cent of the Producers Saleable Daily Quota held on that date and designate this allotment as the Producers Non-Saleable Daily Quota;
- ii) Pursuant to the Daily Quota Transfer Order, a percentage of Daily Quota purchased by a Producer on the Quota Exchange will be classified in the hands of the purchasing Producer as Non-Saleable Daily Quota; and
- iii) Two per cent (2%) of a Producers Saleable Daily Quota held on August 1, 2008 and two per cent (2%) of a Producers Saleable Daily Quota held each August 1 thereafter up to and including August 1, 2010 shall be reclassified as Non-Saleable Daily Quota.
- iv) All future Daily Quota increases are at the discretion of the Board and will be allocated to Producers as Non-Saleable Daily Quota and the amount of the increase

ORDER 2011-04
AN ORDER DEFINING THE MILK MARKETING PROCESS UNDER THE
DAIRY FARMERS OF NEW BRUNSWICK
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- shall be based upon the Producer's Daily Quota holdings on the date of the increase relative to the total Daily Quota allotted to all Producers on the date of the increase.
- v) All future Daily Quota reductions are at the discretion of the Board and will first be drawn from the Producer's Non-Saleable Daily Quota, and then, if necessary, from the Producer's Saleable Daily Quota and the amount of the reduction shall be based upon the Producer's Daily Quota holdings on the date of the decrease relative to the total Daily Quota allotted to all Producers on the date of the decrease.
 - vi) A Producer will have all of their Non-Saleable Daily Quota cancelled by the Board in the same month that the Producer's Saleable Daily Quota falls below 1 kilogram or on the first day of the seventh calendar month that follows the Producer's last shipment of milk, whichever comes first.

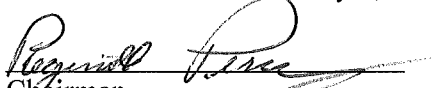
7) CLASSIFICATION OF DAILY QUOTA AS TEMPORARY DAILY QUOTA

The Board will make available 24 kilos of Temporary Daily Quota per year for the New Entrant Program that will be allocated to 2 qualifying New Entrants each year as follows:

- i) A New Entrant is given priority over the available quota to be purchased on 12 consecutive exchanges following their first successful bid or until 12 kilos has been successfully obtained, whichever comes first.
- ii) A New Entrant will affect an increase, not to exceed 12 kilos, to his or her Temporary Daily Quota equal to the kilos of Daily Quota, or part thereof, he or she successfully purchases on those Quota Exchanges prior to the August exchange of the calendar year that follows his or her being deemed a New Entrant.
 - (1) The Board will allot the Temporary Daily Quota to the New Entrant on the first day of August in the calendar year in which he or she was deemed to be a New Entrant by the Board and he or she will be allotted additional Temporary Daily Quota each of the next 11 months or until 12 kilos of Temporary Daily Quota has been allotted, whichever comes first.
- iii) The Board will decrease a New Entrant's Temporary Daily Quota as follows:
 - (1) The Temporary Daily Quota will be reduced at the rate of 1 kilo per year with the first reduction occurring on August 1 of the sixth year of the Temporary Daily Quota being issued to the New Entrant. The annual 1 kilo reduction of the Temporary Daily Quota will be recovered from the New Entrant in 1/10th of a kilo increments in each of the following months. Subsequent annual reductions of 1 kilo, or part thereof, will occur every August 1 thereafter until all the Temporary Daily Quota allotted to the New Entrant is removed.
 - (2) The Board will affect a sufficient reduction to a New Entrant's Temporary Daily Quota so that the sum of a New Entrant's Daily Quota purchased through the Quota Exchange and a New Entrant's Temporary Daily Quota does not exceed 35 kilos.
- iv) Temporary Daily Quota allotted to New Entrants will be excluded from all general increases or decreases calculations and will not be increased or decreased except in accordance with Section 7 ii) and 7 iii) herein.

ORDER 2011-04
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This Order takes effect May 1, 2011


Chairman


Secretary/Manager