

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

PURPOSE: To establish the rules governing the transfer of Daily Quota and imposes such conditions and procedures on the transfer of Quota as the Board considers proper.

WHEREAS by the Milk Plan and Levies Regulation - Natural Products Act the Board has been vested with the power to require Milk to be marketed or produced and marketed on a Quota basis in New Brunswick.

WHEREAS the Board has the vested power to market and regulate the production of Milk and to require Producers to offer to sell and to sell the Milk to or through the Board and to regulate or prohibit the transfer of Quota and to impose such conditions and procedures on the transfer of Quota as the Board considers proper.

AND WHEREAS in accordance with P(10) and P(5) the Board pools revenues from the sales of Milk and Milk components produced and marketed in New Brunswick in special classes of Milk to service domestic and external markets.

AND 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.

AND WHEREAS these recitals form part of this Order.

NOW THEREFORE BE IT ENACTED pursuant to

ii. *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 2016-12 – Daily Quota Transfer Order and replaces it with:

2018-02
DAILY QUOTA TRANSFER ORDER

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.

Catastrophe means a situation, which occurs suddenly, over which the Producer has little or no control, and which severely affects the health of the Producer or of the producing herd of cows.

Due Producer means the amount presented on the Producer's monthly milk statement that represents the net proceeds associated to the milk that the Producer delivered within that month

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

less any advance and after removing all marketing charges and other deductions including any debts that may be owed to the Board.

New Producer means a person who is interested in starting a farm operation but has never been a Producer before.

New Entrant means a Producer that has been granted certain provisions under the New Entrant Program of the Daily Quota Order and other Board Orders.

On-going Farm Operation means either of the following:

- 1) a Licence as issued by the Commission, the associated Daily Quota as issued by the Board, the land, buildings and milking herd of cows of that continuously operating dairy farm business, or
- 2) a Licence as issued by the Commission and the associated Daily Quota as issued by Board in cases where the continuously operating dairy farm business is being relocating to a new site.

Parent/Grandparent/Child/Grandchild means a child or grandchild that is biologically related to or legally adopted by the parent or grandparent.

Quota Exchange means that procedure established herein whereby a Producer may offer to sell or bid to buy Daily Quota at certain stated prices.

Quota Exchange Selling Price, or QESP means that price at which a volume of Daily Quota offered for sale by Producers will equal, or very nearly equal, a volume of Daily Quota bid for purchase by Producers.

Transfer means the exchange of Daily Quota between Producers as authorized and approved by the Board.

2) **DAILY QUOTA TRANSFERS TERMS AND CONDITIONS:** Transfers are subject to Board approval upon terms and conditions as it deems necessary and, without limiting the generality of the forgoing, are subject to the terms and conditions of this Order, which terms and conditions are as follows:

- a) Transfers must be made directly by and between the Producers without the involvement of any intermediary or third party acting or participating for financial benefit.
- b) Transfers must take place on the Quota Exchange as outlined in Section 3 herein, except Transfers exempted under this Order.
- c) Producers involved in the Transfer of Daily Quota in accordance with **Section 4** herein will not be allowed to participate in the Quota Exchange on the effective date of the Transfer.
 - i) A Producer who holds less than ten (10) kilograms of Daily Quota is prohibited from transferring quota under Section 4 of the Daily Quota Transfer Order and can only sell Daily Quota in accordance with Section 3 of the Daily Quota Transfer Order .

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

- d) Transfers must be completed by the Producer on forms provided by the Board.
- e) Transfers must be submitted by the Producer to the Board prior to the deadline for submission being 4:00 p.m. on the first business day of the calendar month.
- f) Transfers received by the Board after the deadline for submission or any incomplete Transfers shall not be accepted.
- g) Producers may withdraw or amend their Transfer forms, provided such amendment is in writing in prescribed form and received by the Board prior to the submission deadline.
- h) When the Transfer becomes effective, the Producer selling Daily Quota shall repay to the Board the amount of money associated with the amount of Credits that exceeds the resulting Maximum Credits allowable to the selling Producer after the sale. The amount repaid is determined by the prevailing Domestic Market Rate.
- i) The Daily Quota Transfer shall only take effect when the selling Producer has paid in full any debts owed to the Board.
- j) Multiple Producers shall not be permitted to merge their Producer numbers and associated quota holdings under one Producer number.

3) **TRANSFERS THROUGH THE QUOTA EXCHANGE**

a) The Exchange

The Board provides a mechanism for Producers wishing to buy or sell Daily Quota called the Quota Exchange.

b) Requirements to Participate on the Exchange

- i) Producers whose quota has not been cancelled or suspended by the Board can participate in the Quota Exchange.
 - (1) The Board can participate in the Quota Exchange for the purpose of offering to sell a Producer's cancelled Quota.
- ii) A Producer cannot offer to sell Daily Quota and bid to buy Daily Quota on the same Quota Exchange.
- iii) A Producer cannot offer to sell Daily Quota or bid to buy Daily Quota at a price which exceeds \$24,000; and
- iv) Offer to Sell forms signed by the Producer's Business Representative and/or Offer to Sell forms authorized by the Board for the purpose of selling a Producer's cancelled Daily Quota are to be submitted to the Board in accordance with **Section 2 herein** that legibly state:
 - (1) the amount of Daily Quota offered for sale in increments of kilograms and tenths of a kilogram (offers to sell hundredths of a kilogram are rejected);

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

- (2) the offer to sell price to the nearest dollar per kilogram; and
- (3) the month of the Quota Exchange the offer to sell is submitted.
- v) Bid to Buy forms signed by the Producer's Business Representative are to be submitted in accordance with **Section 2 herein** and legibly state:
 - (1) the amount of Daily Quota in increments of kilograms and tenths of a kilogram (bids for hundredths of a kilogram are rejected).
 - (2) the bid price to the nearest dollar per kilogram (Bid Price).
 - (3) the month of the Quota Exchange the Bid to Buy is submitted.
- vi) The funding required to cover off a Producer's Bids to Buy will be determined by the multiplication of Section 3 v) (1) herein by Section 3 v) (2) herein.
- vii) The Board shall reduce the amount of Daily Quota bid for by a Producer in Section 3 v) (1) herein so that its multiplication by the bid price does not exceed the greater of the Due Producer amount shown on that Producer's prior month's statement or the Producer's valid confirmation of funds on record with the Board.
 - (1) The Board will reduce a Producer's confirmation of funds by those amounts that he successfully purchases on an exchange until such a time that the funding is depleted.
 - (2) To be valid, confirmation of funds must have a date that extends to the end of the month of the quota exchange in which the Producer is submitting a Bid to Buy.
 - (3) The Board will cause all Confirmation of Funds to expire annually on July 31 and will require Producers to resubmit new confirmation of funds at that time.

c) Clearing the Exchange

Volumes of Daily Quota offered for sale are ranked in ascending order of price while volumes of Daily Quota bid for purchase are ranked in descending order of Bid Price. The point where the difference between the cumulative volume offered for sale and the cumulative volume bid for purchase is the least will determine the price at which the exchange will be cleared and the volume that will be transferred between successful purchasers and successful sellers. This cleared price is the Quota Exchange Selling Price (QESP).

d) Determining the QESP

The QESP shall be the price that the Daily Quota is sold and bought for on that Quota Exchange. When there are two QESP prices where the exchange clears, the lesser of the two prices, on the purchaser's side, will be chosen as the QESP.

e) Distributing Daily Quota to be Sold and Purchased when amounts available to sell at the QESP are equal to the amounts bid for.

In the event the cumulative amount of Daily Quota of the Offers to Sell at or below the QESP equals the cumulative amount of Daily Quota of the Bids to Buy at or above the QESP, the Daily Quota will be sold and purchased as follows:

- i) each successful seller at or below the QESP will sell 100% of the Daily Quota they offered for sale and be paid the QESP less any debts owed to the Board, if any; and

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

ii) each successful purchaser will buy 100% of the Daily Quota they bid to buy and pay the QESP.

f) Distributing Daily Quota to be Sold and Purchased when amounts available to sell at the QESP are less than the amounts bid for.

In the event the cumulative amount of Daily Quota of the Offers to Sell at or below the QESP is less than the cumulative amount of Daily Quota of the Bids to Buy at or above the QESP, the Daily Quota will be sold and purchased as follows:

i) each successful seller at or below the QESP will sell 100% of the Daily Quota they offered for sale and be paid the QESP less Due Board, if any; and
ii) each successful purchaser at or above the QESP will receive an allotment of the available quota in the following priority:

(1) Each Producer who is a New Entrant will purchase all or a portion of the available Daily Quota up to the amount of Temporary Daily Quota they were approved for (12 kilos for applicants approved on or before December 31, 2015 or 16 kilos for applicants approved on or after January 1, 2016), and

(2) Each New Entrant that is returning Temporary Daily Quota will purchase all or a portion of the available Daily Quota up to the 1/10th of a kilo that they are returning in that month.

(3) Each Producer, excluding a New Entrant who purchased quota in Section 3f)ii)(1) herein, will purchase at least one or possibly multiple increments of 0.01 kilos that will be allocated in series to each purchaser until 50% of the available Daily Quota remaining is distributed, and

(a) if the available Daily Quota after Section 3f)ii)(1) is insufficient to allow for at least 1 series of 0.01 kgs to each purchaser, the available Daily Quota will be distributed to purchasers as per Section 3f)ii)(3)(b) below;

(b) Each Producer excluding a New Entrant who purchased quota in Section 3f)ii)(1) herein and excluding Producers whose bids were completely satisfied in Section 3f)ii)(3) will purchase a proportion of the available Daily Quota remaining after Section 3f)ii)(1), (2) and (3) with the proportion calculated as follows:

(i) $\text{Volume bought} = \frac{\text{Volume of unsatisfied successful buy offer} \times \text{Remaining cumulative volume of successful offers to sell}}{\text{Remaining cumulative volume of successful offers to buy}}$

(4) If a New Entrant purchases Daily Quota under Section 3f)ii)(1) herein, and part of their successful buy offer remains unsatisfied, the New Entrant shall not be allocated any Daily Quota under Section 3f)ii)(3) or Section 3f)ii)(3)(b) of that exchange.

g) Distributing Daily Quota to be Sold and Purchased when amounts available to sell at the QESP are greater than the amounts bid for.

In the event the cumulative amount of Daily Quota of the Offers to Sell at or below the QESP is greater than the cumulative amount of Daily Quota of the Bids to Buy at or above the QESP, the Daily Quota will be sold and purchased as follows:

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

- i) successful sellers, in ascending order of Offer to Sell price, will in effect sell 100% of the Daily Quota they offered for sale and be paid the QESP less Due Board, if any, until a point is reached where there is insufficient Daily Quota to satisfy 100% of the Offers to Sells that remain;
 - (1) at this point the successful seller(s) at the next ascending Offer to Sell price will sell a percentage of the Daily Quota they Offered for Sale, the percentage being the Daily Quota that remains to be sold as a percentage of the total Daily Quota offered for sale at that price; and
 - (2) beyond this point, successful seller(s) that remain will sell no Daily Quota.
 - ii) each successful purchaser will buy 100% of the Daily Quota they bid to buy and pay the QESP.
- h) Adding Quota to the Quota Exchange**
The Board shall have the option to add Daily Quota to the Quota Exchange to exactly balance the Quota Exchange.
- i) Communication of Exchange Results**
The results of the clearing of the Quota Exchange will be made available to Producers three working days after the first working day of the month.
- j) Collecting from Successful Purchasers**
Producers must pay the Board the QESP for the Daily Quota so purchased on or before the last day of the month of that Quota Exchange. Failure to pay for the Quota will lead to its cancellation and the Daily Quota will revert to the Board and dealt with at the Board's discretion. In cases where the Board accepts a delay in payment, the Board will impose on the purchasing Producer interest charges at a rate of prime +5% on outstanding balances.
- k) Payment to Successful Sellers**
Producers who are successful in selling Daily Quota on the Quota Exchange will be advised in writing and paid by the Board on or before the last day of the month of that Quota Exchange;
- i) The Board shall deduct from a Producer who has been successful in selling all of his Daily Quota on a Quota Exchange a Security Deposit equivalent to \$1,000 per kilogram of Daily Quota being sold or any other additional amount that is sufficient to cover any debts owed to the Board.
 - ii) The Board will refund the Security Deposit, (if any, after recovering any debts the Producer owed to the Board) the month following the effective date of the sale of Quota.
 - iii) The Board will return the proceeds obtained from the successful sale of a Producer's cancelled Daily Quota less any debt owed to the Board back to the Producer.
- k) Effective Date of Daily Quota Successfully Purchased or Sold through Exchange**
The Transfer of the Daily Quota takes effect on the first day of the month following the month in which the Quota Exchange operated.

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

l) Rights of Board to Cancel or Postpone Exchange

The Board reserves the right to cancel or postpone a Quota Exchange at any time for any reason it deems necessary; and

- i) If the Board cancels or postpones a Quota Exchange, Producers must resubmit their bids or offers before the next Quota Exchange in accordance with the procedures set out in this section.

4) TRANSFERS EXEMPT FROM THE QUOTA EXCHANGE AND THE TERMS AND CONDITIONS OF THE EXEMPTED TRANSFERS

Subject to the Producer:

- 1) being licenced by the Commission, and
- 2) providing the Board prior written consent of an exempt quota transfer under this part from the Lender Institution(s) named in the Producer's Letter(s) of Direction(s) and Undertaking(s), if any, and
- 3) Board approval,

the following types of Transfers are exempt from being transferred through the Quota Exchange and are only available to Producers who hold ten (10) kilograms of Daily Quota or more:

a) On-Going Farm Operation / Name Change

- i) a Producer who holds at least 10 kilos of Daily Quota may request to transfer the ownership of the dairy farm associated with the Producer's license as issued by the Commission and the associated Daily Quota and Credits as issued by the Board to a new owner by completing the designated forms along with any other supporting documentation that may be required; and
- ii) a Producer who wishes to change the name associated with the Producer's license as issued by the Commission and on record with the Board must do so by completing the designated forms along with any other supporting documentation that may be required; and
- iii) a Producer who holds between 12 kilos and 23 kilos of Daily Quota may request the Board to transfer the ownership of the dairy farm associated with the Producer's license as issued by the Commission and the associated Daily Quota and Credits as issued by the Board to a New Entrant that:
 - (1) has been approved by DFNB on or prior to December 31, 2015; and
 - (2) holds no quota prior to the transfer application or to the effective date of the transfer; and
 - (3) is not a family relative or spouse of the Producer; and
 - (4) by completing the designated forms along with any other supporting documentation that may be required.
- iv) a Producer who holds between 12 kilos and 19 kilos of Daily Quota may request to transfer the ownership of the dairy farm associated with the Producer's license as issued

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

- by the Commission and the associated Daily Quota and Credits as issued by the Board to a New Entrant:
- (1) approved by DFNB on or after January 1, 2016; and
 - (2) who holds no quota; and
 - (3) is not a family relative or spouse of the Producer; and
 - (4) by completing the designated forms along with any other supporting documentation that may be required.
- v) a Producer or New Entrant who has been granted a Transfer or Name Change will not be allowed to sell any Daily Quota on the quota exchange for 6 months following the Transfer becoming effective;
- vi) Temporary Daily Quota is not transferable.
- vii) Credits are transferred.
- viii) The Transfer of the Daily Quota takes effect on the first calendar day of the month following its approval by the Board and the Commission.
- b) New Producer or New Entrant being transferred a portion of Producer's Daily Quota**
- i) A New Producer or New Entrant must not have held any quota on or before the transfer request is submitted, nor prior to the transfer taking effect.
 - ii) A New Producer or New Entrant can only obtain Daily Quota using this transfer method once and from one Producer;
 - iii) A family relative of a Producer is permitted to obtain Daily Quota using this transfer method.
 - iv) a Producer may request to transfer up to 50% of the Daily Quota on the condition that the Transfer provides:
 - (1) a New Producer with a minimum of 10 kilos of Daily Quota; or
 - (2) a New Entrant that was selected by the Board on or prior to December 31, 2015 with a minimum of 12 kilos and a maximum of 23 kilos of Daily Quota; or
 - (3) a New Entrant that was selected on or after January 1, 2016 with a minimum of 12 kilos and a maximum of 19 kilos of Daily Quota.
 - v) New Producers or New Entrants obtaining Daily Quota in this manner will not be allowed to sell any Daily Quota for 12 months following the Transfer becoming effective;
 - vi) Temporary Daily Quota is not transferable.
 - vii) Credits are not transferred.
 - viii) The Transfer of the Daily Quota takes effect on the first calendar day of the month following its approval by the Board and the Commission.
- c) Top Up Transfer:**
- i) A parent can transfer quota to a child and a grand-parent can transfer quota to a grand-child who does not hold any quota on the condition that the child agrees to ship milk on a continuous basis for five years from the effective date of the transfer before being able to transfer the quota.

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

- ii) A child or grand-child who hold quota or purchase quota as part of an on-going operation, or purchase quota on an exchange are eligible to receive a quota transfer from a parent or grand-parent under the following conditions:
 - (1) At the time of transfer the parent or grand-parent must have been licenced and continuously produced and marketed milk for a minimum of 10 years;
 - (2) The parent or grand-parent can transfer quota to more than one child or grand-child on separate licences or to a licence held by one or more of their child(ren) or grand-child(ren),
 - (3) The parent or grand-parent can transfer up to 50 per cent of their quota, the eligible amount based on the parent's or grand-parent's quota holdings at the time of their first transfer;
 - (4) The parent or grand-parent can transfer quota to the same licence held by their child(ren) or grand-child(ren) up to three times;
 - (5) The parent or grand-parent must have started to produce and market milk prior to the child or grand-child;
 - (6) The child or grand-child must ship milk on a continuous basis for a minimum of five years from the effective date of the transfer to be eligible to transfer the quota received from the parent as part of an on-going farm operation or to a child or grand-child;
 - (7) The child or children or grand-child or grand-children, if the license is held by two or more children or grand-children, must hold at least 50% of the quota prior to the first transfer and maintain the same level of quota ownership after the first or subsequent transfers for at least five years from the effective date of the transfer or the quota must be sold on the quota exchange.
 - (8) The quota holdings of the parent or grand-parent farm following the transfer must be equal or larger than the quota holdings of the child or grand-child's farm inclusive of the transfer.
- iii) If any of the conditions in item (ii) above are not met, the transfer may be denied and/or previous transfers reversed and/or the Board may issue an order to sell, on the quota exchange, the quota acquired from a transfer.
- iv) A child or grand-child cannot transfer quota from their licence back to the license of a parent or grand-parent.
- v) The Board may require verification and a sworn affidavit by legal counsel or accountant regarding the parent to child or grand-parent to grand-child relationship.
- vi) Parents or Grand-Parents who transfer quota to a child or grand-child cannot at any time:
 - (1) be added to the licence of the child or grand-child; and
 - (2) take over the licence of the child or grand-child or their successors.
- vii) The Transfer of the Daily Quota takes effect on the first calendar day of the month following its approval by the Board and the Commission.

ORDER 2018-02
AN ORDER DEFINING THE QUOTA POLICIES OF THE
DAIRY FARMERS OF NEW BRUNSWICK
(the "**DAILY QUOTA TRANSFER ORDER**")

d) Catastrophe Transfer

In the event a Producer's supply of milk to the Board ceases completely as a result of a catastrophe, the Producer may be given permission to be out of production for a period not exceeding 12 months and retain his Daily Quota.

- i) A Producer who requires this special consideration must submit a written request to the Board within three months of the occurrence of the Catastrophe and provide satisfactory evidence of the catastrophic events that caused the Producer to cease shipping milk; and
- ii) A Producer who is granted a Catastrophe Transfer can direct the Board to issue a monthly non-cumulative incentive block based on the Producer's Daily Quota to one or more Producers for a period not exceeding 12 months.
- iii) The Producer who suffered the Catastrophe shall advise the Board in writing of the date when he wants to conclude the Transfer and the date he wishes to resume milk shipments; and
- iv) The Board may attach such terms and conditions to the Transfer as it shall determine.

e) Renovation and Construction of New Facilities Transfer

In the event a Producer wishes to renovate or construct new milking or housing facilities for his milking herd which will require him to cease supplying milk to the Board, the Producer may be given permission to be out of production for a period not exceeding 12 months and retain his Daily Quota.

- i) A Producer who requires this special consideration must:
 - (1) submit a written request providing details of the renovation or construction plans to the Board that have been reviewed by the New Brunswick Farm Products Commission three months prior to starting said renovation or construction; and
 - (2) demonstrate that he has secured the finances necessary to carry out the construction or renovation; and
 - (3) must be shipping milk at the time the application is submitted; and
 - (4) must not have sold any more than 50% of his Daily Quota holdings in the three months prior to submitting his application; and
 - (5) must maintain the minimum Daily Quota holdings as set out in the Daily Quota Order;
- ii) A Producer who is granted a Renovation and Construction of New Facilities Transfer can direct the Board to issue a monthly non-cumulative incentive block based on the Producer's Daily Quota to one or more Producers for the duration of the Transfer.
- iii) The Producer who was granted the Transfer shall advise the Board in writing when he wants to conclude the Transfer and the date he wishes to resume milk shipments; and
- iv) The Board may attach such terms and conditions to the Transfer as it shall determine.

This Order takes effect August 1, 2018

This Board Order is a reproduction of the original Board Order which has been signed by the Chairman and the General Manager.