

DFPEI 2025-02
DAIRY FARMERS OF PRINCE EDWARD ISLAND

BOARD ORDER: DFPEI 2025-02

EFFECTIVE: 25 March 2025

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:

MARKETING ORDER

Application

1. This order applies to the control and regulation of the production and marketing of milk in the province of Prince Edward Island. It provides a structure for the fair allocation of the province's quota share amongst Prince Edward Island milk producers, while recognizing policy obligations created under regional and national agreements.

Definitions

2. The words herein shall have the meanings as found in the **Natural Products Marketing Act** and the Dairy Farmers of Prince Edward Island Regulations and in this order:

- (1) "DFPEI" shall mean Dairy Farmers of Prince Edward Island;
- (2) "dairy barn" means a barn in which feeding and holding areas are used in conjunction with a milking system;
- (3) "dairy farm" means a farm where dairy animals are kept for milking and from which milk is marketed or sold to a processor for human consumption, and includes all land, cows, buildings, and premises occupied or used in the production of milk;
- (4) "force majeure" means adverse weather conditions or any other act of God, labour disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a party's control;
- (5) "immediate family members" means spouse, father, mother, son, daughter, sister, brother, grandfather, grandmother, grandson, or granddaughter of a person;
- (6) "market" means to sell raw milk to a milk processor
- (7) "milk producer" means an individual, partnership, corporation, syndicate or business group that produces and markets milk for processing;
- (8) "monthly quota" is the total quota for each month allotted to a milk producer, as determined by DFPEI;

- (9) "ongoing dairy operation" is a dairy farm that continues to operate at a specific location using the dairy barn and quota allotted to the milk producer.
- (10) "processor" means a person performing any processing of milk.
- (11) "province's quota share" means the amount of quota determined as a part of processes created under the National Milk Marketing Plan and national or regional agreements for sharing the market for milk and milk products in Canada, as determined and allocated to the province by the Canadian Dairy Commission;
- (12) "quota" means a share of the market for milk fixed and allotted by the Board to a milk producer;
- (13) "quota days" are the number of days each month that are assigned to a milk producer for the purposes of determining monthly quota;
- (14) "quota exchange" is a mechanism to facilitate the sale and purchase of quota between milk producers as established by DFPEI in its Quota Exchange Order;
- (15) "relocation" is the act of moving the milk production permitted by a quota to a new dairy farm location; and
- (16) "total production quota" or "TPQ" is the calculated amount of quota allotted to each milk producer by the Board and measured in kilograms of butterfat per day, rounded to two decimal places.

Persons
receiving milk

- 3. All milk produced for human consumption shall be sold to DFPEI and marketed to processors at the direction of DFPEI. No person shall receive milk destined for human consumption that originated from a milk producer who does not possess a registration number and a quota allotted by DFPEI.

Quota is the
property of DFPEI
and may not be
assigned

- 4. Quota is the property of DFPEI and interest in quota is not transferrable between milk producers or to other persons, except as provided for in DFPEI orders. DFPEI does not recognize third party claims on quota.

Letters of Direction

- 5. Milk producers may register a maximum of two letters of direction with DFPEI that direct the proceeds from the sale of an interest in some or all of that milk producer's quota, to a third party, normally a lender. Letter of direction shall
 - (a) be prepared using a form approved by DFPEI and signed by a natural person who has authority to bind the milk producer
 - (b) shall specify the amount of quota for which the proceeds from its sale shall be payable to the third party
 - (c) shall obligate DFPEI to advise the third party if DFPEI receives an offer to sell

quota through the quota exchange that would reduce the producer's quota allocation below the specified amount

- (d) shall obligate DFPEI to remit the proceeds of any such sale to the third party unless they provide written instructions to release the proceeds to the milk producer
- (e) provide that the letters of direction may not be revoked by the milk producer without prior written consent from the third party
- (f) provide that when two letters of direction are received from a milk producer any payment shall be distributed to satisfy the third parties in the order in which letters of direction were received, unless otherwise specified in writing by the third parties
- (g) provide that a third party must agree in writing to release payments to a milk producer if the sale would reduce the quota holding of the milk producer below the amount specified in letters of direction.

Multiple quota
holdings prohibited

6. A milk producer, including any natural persons who hold a legal or beneficial interest in the milk producer, may hold an interest in only one quota and shall not hold an interest of any kind in any other quota allotted by the Board, including but not limited to sole ownership, partnership interest, beneficiary of a trust, or through direct or indirect ownership of shares in any incorporated entity that is a milk producer.

Milk Producers
are natural
persons

7. All milk producers shall file a disclosure, verified by statutory declaration, confirming the natural persons that have a beneficial interest in the milk producer's quota and any transfer of quota, including transfer of share ownership or other beneficial interest in a dairy farm must be approved by DFPEI.

Acceptable farm
locations

8. All dairy farms shall be located on a discrete parcel of land that can be sold in its entirety without subdivision from any other parcel of land and must have its own direct lane access from a public roadway. There shall be a minimum of 100 meters between dairy barns on any two dairy farms.

Board may deny
revoke or reduce
quota allotment

9. DFPEI may refuse to fix and allot quota, or may cancel, reduce or refuse to increase quota, to any person for any contravention of any of DFPEI's policies, orders or directions, or any part of the Natural Products Marketing Act, the DFPEI Regulations thereunder, Canadian Dairy Commission Act, or any other legislation governing dairy farms.

Unacceptable
transactions

10. Milk producer requests to update, transfer, sell, purchase, use and/or relocate an interest in quota that, if allowed, would contravene DFPEI's policies, orders or directions, or any provision of the Natural Products Marketing Act, the DFPEI Regulations thereunder; Canadian Dairy Commission Act; or any other legislation governing dairy farms shall be denied.

Milk Production
may not be
combined

11. Milk production permitted by quota cannot be combined with milk from any other source.

Merging quota is
not permitted

12. Under no circumstances may two or more milk producers merge their quotas either directly or through a combination of quota transfer or dairy farm relocation.

Milk Producer
Requirements

13. To be allotted or retain quota, milk producers shall comply with the following

- (a) each natural person who is a milk producer shall have reached the age of majority;
- (b) when two or more natural persons are partners, shareholders or otherwise beneficial owners of a dairy farm, at least one of those persons must be involved in producing and marketing milk on the dairy farm and reside on the dairy farm or within 20 kilometers of the dairy farm;
- (c) any change in ownership of a dairy farm, including sale of shares or changes in other forms of ownership of a dairy farm shall be approved by DFPEI prior to the change of ownership becoming effective; and
- (d) if a milk producer is the spouse of another milk producer and each of them hold an interest in separate quotas, then each of them must submit legal declarations to DFPEI releasing their spousal interest in the other's dairy farm and quota.

Required
Information

14. Any person applying to DFPEI to acquire an interest in quota is required to provide an accurate and up-to-date statement of the natural person or persons holding a beneficial interest in the quota allotted by DFPEI. This requirement shall be fulfilled by submitting a statutory declaration indicating the type of business structure and the names of the sole proprietor(s), partners, shareholders or other beneficial owners. The declaration shall indicate who has the authority to bind the corporation.

Additionally

- (a) if the necessary information has not been provided or where DFPEI is not satisfied with the ownership structure, it may refuse to allot the quota or may cancel or reduce the quota allotted to the producer;
- (b) ownership information for all farms shall be updated at least every year as of the 31st day of March, or when any change of ownership occurs;
- (c) any milk producer who does not submit the required ownership information, as ordered herein, shall not be eligible to receive quota increases issued during the time they are not compliant;
- (d) any milk producer who does not submit the required ownership information, as ordered herein, shall not be eligible to participate in the quota exchange or the credit exchange during the time they are not compliant; and
- (e) any milk producer who does not submit the required ownership documentation within four months of the due date shall be subject to suspension of quota and subsequent direction of the milk producer's quota to the exchange.

Quota transfers

15. Quota may be transferred between milk producers as follows

- (1) to a milk producer who, or which, purchases quota through a quota exchange

- operated by DFPEI as directed in a Quota Exchange Order.
- (2) to immediate family members by changing the immediate family members recorded as owners, shareholders, or other beneficial owners of the dairy farm, provided that production continues on an uninterrupted basis at the same dairy farm location. The registration number shall only be changed if required for administrative processes.
 - (3) to a new milk producer, excluding immediate family members, who acquires an on-going dairy operation and has acquired all land, buildings, dairy equipment, and the milking herd. Such transfers shall be conditional on:
 - (a) the transferor must own the dairy farm and associated assets to transfer the quota as part of an ongoing dairy operation;
 - (b) the transferee shall sell all milk from the acquired dairy farm location for at least five years after the date of transfer, but may move milk production to a new dairy barn on that dairy farm;
 - (c) the on-going dairy operation may be transferred to another new milk producer as permitted in this order; and
 - (d) if the transferee does not comply with these conditions the Board shall direct the quota held by the transferee to be sold through the quota exchange;
 - (4) from a parent (for the purpose of this section "parent" includes grandparents or the estate of a parent) to a child of the parent ("child") who is a new or existing milk producer operating at a different dairy farm location, provided that no conditions or restrictions are in effect on the quota holdings of the parent or child pursuant to other sections of this order, or any other DFPEI order. Such transfers, commonly described as a "top-up", shall be subject to the following
 - (a) the parent must have started to produce and sell milk before the child starts production;
 - (b) the parent must be a milk producer who has produced and sold milk continuously from their own dairy farm for not less than 10 years;
 - (c) if a child operates a dairy farm as a partnership or a corporation, the child must own at least fifty percent (50%) of the dairy farm to be eligible for top up;
 - (d) the parent may transfer quota to more than one child;
 - (e) the total amount that may be transferred from a parent's dairy farm shall not exceed fifty percent (50%) of the total quota holdings of that milk producer on the date that the first transfer to any of their children occurs;
 - (f) the parent may transfer to each child on a maximum of three occasions.
 - (g) child to parent top-up is not permitted; and
 - (h) where a top-up occurs, the parent may never be added to the ownership of the child's dairy farm.
 - (5) all applications for transfers must be presented to the Board on a form provided by or approved by DFPEI, and must be received not later than the fifteenth day of the month prior to the month in which the transfer is proposed to be executed; and
 - (6) all transfers approved by the Board shall be executed effective as of the first day of the month following the month in which the transfer is approved, or the first day of another future month if selected by the applicants.

Lease equivalent
to purchase

16. When determining eligibility under s.15(3) for a transfer of quota, the Board may consider the lease of a dairy farm for five years or more to be equivalent to a purchase. A quota holder who operates from a leased location is not eligible to transfer their quota

as part of an ongoing dairy operation.

Relocation of
quota

17. A milk producer may relocate their milk production to a location that is not an existing dairy farm, provided that no limitations on such a move are created by this or any other DFPEI order. Relocations are subject to the following conditions

- (1) Any milk producer planning to relocate their dairy farm shall request approval from the Board and shall not commence milk production in the new location without the Board's written consent.
- (2) The new location must conform to all standards established in DFPEI orders and limitations established in s.8 and s.13 of this order shall apply.
- (3) Production shall continue from the new location for not less than five years.
- (4) When a dairy farm is relocated, the milk producer is prohibited from changing the ownership of the quota for five years, including but not limited to, selling the quota, changing beneficiaries to a trust, adding new partners, or changing share ownership if the dairy farm is a corporation, except that
 - (a) immediate family members may be added as new partners or shareholders in the dairy farm; or
 - (b) the quota may be sold through the quota exchange in accordance with S. 15(1) of this order.

Dissolution of a
Partnership
or Corporation

18. If a milk producer that is a partnership or corporation held by more than one partner or shareholder, or is owned through any other form of joint ownership, is dissolved, then the quota may be divided between the partners or shareholders, as the case may be, in the amounts requested by the partners or shareholders in writing to DFPEI, provided that

- (a) DFPEI shall allot the quota between the partners or shareholders, as the case may be, and one part not exceeding 50% of the quota held before dissolution may be relocated to a new dairy farm
- (b) no conditions or restrictions are in effect on the quota holdings pursuant to other sections of this order, or any other DFPEI order; and
- (c) quota that is relocated to a new dairy farm location as the result of such a re-allotment shall be subject to the conditions specified in s.17 of this order.

Board
approval required

19. All transfers and relocations of quota, except those made through s. 15(1) of this order, are subject to approval by the Board prior to execution. The Board may also impose conditions on any transfer or relocation that it deems appropriate.

Minimum
Quota Holding

20. A milk producer must hold a minimum of 10 kilograms of TPQ to market milk. Exceptions may be considered by the Board only if a milk producer markets all milk produced on their dairy farm to a licensed processor operating on their dairy farm.

Determining Quota
Days

21. Quota days allotted each month shall be determined by the number of days from, and not including, the last day milk was picked up in the previous month to the last day milk is picked up in the current month, except that, if milk was not shipped on the last scheduled pickup or pickups in a month, then:

- (1) the number of quota days for the month shall equal the number of days from the last day milk is picked up in the previous month to the last day milk is scheduled for pick up from that milk producer in the current month; and
- (2) the number of quota days in the following month shall be equal to number of days from the last day milk is scheduled for pick up in the current month to the last day milk is picked up in the following month.

Monthly quota

22. The monthly quota for a milk producer shall equal their TPQ multiplied by the number of quota days in that month, rounded to two decimal places

Credit system

23. Recognizing that milk producers' efforts to fill their TPQ shall result in production either above or below their monthly quota allocation, DFPEI shall allow milk producers to market volumes of milk that vary from the amount permitted by their quota to limits established in this order. These variances shall be recorded as over-quota production or under-quota production credits as specified below.

- (1) The limits established as of the effective date of this order allow a milk producer to market milk to a cumulative maximum of ten (10) times the milk producer's daily quota, or cumulative minimum of fifteen (15) times their TPQ.
- (2) When a milk producer first begins milk production the cumulative credit balance of the dairy farm shall be zero.
- (3) In any month that a milk producer markets more than the amount of milk permitted by their monthly quota, the over-production shall be recorded as over-production credits, and the amount shall be added to the milk producer's cumulative credit balance.
- (4) In any month that a milk producer sells less than the amount of milk permitted by their monthly quota, the under-production shall be recorded as under-production credits, and the amount shall be subtracted from the milk producer's cumulative credit balance.
- (5) Credits may be transferred between milk producers by a credit transfer mechanism established in other DFPEI orders.
- (6) When credits are transferred from a milk producer, their cumulative credit balance shall be increased by the number of credits transferred.
- (7) When credits are transferred to a milk producer, their cumulative credit balance shall be decreased by the number of credits transferred.
- (8) At the end of any month, if the cumulative balance of production credits is greater than zero the milk producer shall be deemed to be in an over-production credit balance.

- (9) At the end of any month, If the cumulative balance of production credits is less than zero the milk producer shall be deemed to be in an under-production credit balance
- (10) At the end of each month, any over production that exceeds the cumulative maximum number of over-production credits permitted shall be declared as over-quota production. Over quota production shall not be included in credit calculations or be added to the milk producer's cumulative credit balance.
- (11) Milk producers shall not be paid for over quota production and may be subject to over quota penalties as established from time to time by the Board.
- (12) At the end of each month, any under production that exceeds the cumulative maximum number of under-production credits permitted shall be declared as under-quota production. Under-quota production shall not be included in credit calculations or be subtracted from the milk producer's cumulative credit balance.

Value of over
production

24. The value of over-quota production accumulated by a milk producer shall equal the value of the blended component returns per kilogram of butterfat, protein and other solids paid to milk producers by DFPEI for the month in which the milk producer is financially responsible to DFPEI, multiplied by the kilograms of those components deemed over-quota.

Responsibility for
over quota
production

25. A milk producer shall be financially responsible to DFPEI for the value of all accumulated over-quota production. DFPEI may demand payment for over-quota production at any time if required by policy changes or any situation that would necessitate such demand.

Producer exiting
the industry

26. A milk producer who exits the industry must pay DFPEI for their accumulated over-production credits, which shall be deemed to be over-quota production, when they cease production. DFPEI shall not approve a transfer of quota from a milk producer if DFPEI has not been compensated for the value of accumulated over-quota production attributed to the transferor.

Payment for over
quota production

27. A milk producer may compensate DFPEI for the value of accumulated over-quota production credits in any of the following manners:

- (1) If a milk producer is exiting the industry by transferring his quota to a purchaser of his on-going dairy operation, the accumulated over-quota production credits may be transferred to the purchaser of the quota provided the purchaser agrees, in writing to DFPEI, to the transfer
- (2) If a milk producer is exiting the industry by selling his interest in quota through the quota exchange, the milk producer may direct payment to DFPEI for the value of accumulated over-quota production credits from the proceeds of quota sold.
- (3) If a milk producer has not paid DFPEI for the value of accumulated over-quota production credits, DFPEI shall deduct the value of the accumulated over-quota production credits from payments due to the milk producer, including payments for

milk production and payments for quota from the quota exchange.

Lost under
production credits

28. DFPEI shall not reinstate under-quota production credits lost by any milk producer for any reason.

Production
incentives

29. DFPEI may, from time to time, offer milk producers production incentives to permit the delivery of additional milk required to meet short-term demand. Such incentives shall be temporary; shall be expressed in terms of additional quota days or kilograms of butterfat and shall not form part of a milk producer's quota holdings.

Payment of fees,
service charges
and levies

30. No milk producer shall market milk without paying the fees, service charges or levies fixed by DFPEI and assessed to the milk producer.

Processor
deductions

31. Each processor shall deduct from monies payable to a milk producer any levies, fees, penalties, or service charges as directed by DFPEI, and shall remit the monies collected to DFPEI by the twentieth of the month following the month the milk was delivered.

Milk sold only from
approved location

32. No milk producer shall market milk produced by any other person or produced at any location other than the dairy farm approved by DFPEI and inspected to ensure compliance with milk production standards. No milk producer shall sell or offer to sell milk that is not produced by cows they own, lease, or rent and that are located on the milk producer's dairy farm.

Non-production

33. DFPEI shall direct a milk producer's quota to be sold through the quota exchange if that milk producer does not sell milk for three consecutive calendar months. The Board may make exceptions where catastrophe relief has been requested or when a milk producer can demonstrate force majeure has frustrated their milk production.

Catastrophes

34. A milk producer who has reduced deliveries or discontinued production temporarily due to a catastrophe may apply to the Board for temporary relief from DFPEI orders. The Board may grant such relief to a milk producer that has suffered a catastrophe as specified in a catastrophic relief policy of the Board or a Board order. A catastrophe may include:

- (a) sudden death or loss of a significant part of the milking herd;
- (b) injury or illness of the milk producer or the person(s) responsible for the dairy herd;
- (c) death of the milk producer or the person(s) responsible for the dairy herd;
- (d) destruction of the production facilities; or
- (e) any other catastrophic event not identified herein that prevents continued milk production and is approved by the Board for relief.

Processor reports

35. Each processor shall report all purchases of milk from each milk producer and shall

include records of any payments for that milk and all monies deducted from those payments. Reporting shall be accomplished by a method acceptable to DFPEI.

Establishment of
provincial quota

36. From time to time the Board shall determine the amount of quota to be allotted to milk producers to utilize the province's quota share. This determination may be made as part of processes established in federal-provincial agreements for sharing milk markets, revenues, and costs.

Quota
adjustments

37. The Board may adjust quotas allotted to milk producers at any time to reflect an increase or decrease in the province's quota, market conditions or production variances, based on the percentage of their quota holdings compared to the total province's quota holdings before the adjustment provided that no limitations on such adjustment are created by this or any other DFPEI Order.

Quota reserve

38. DFPEI may, at its discretion, hold an amount of the province's quota share in reserve.

Suspension
of quota

39. The Board may suspend all or part of a milk producer's quota where the milk producer has contravened any Board order. Such suspension may be followed by direction for the quota to be sold through the quota exchange.

Revocation

40. Dairy Farmers of Prince Edward Island orders DFPEI 2024-04 is hereby revoked.

Commencement

41. This Order comes into force on 25th day of March 2025.

DATED at Charlottetown, Prince Edward Island, this 21st day of March 2025.



Gordon MacBeath, Chair



Connie Gorrill, Secretary