

**AMENDING ORDER 77
TO
CONSOLIDATED ORDER OF SEPTEMBER 1, 2013
MADE BY THE BRITISH COLUMBIA MILK MARKETING BOARD
ON August 9, 2018**

The British Columbia Milk Marketing Board orders as follows:

1. *Section 3 of the Consolidated Order of September 1, 2013 is amended by replacing the definition of “Special Allotment” with the following:*

“Special Allotment” means:

- (a) a general allotment of Continuous Daily Quota by the Board;
 - (b) an allotment of Continuous Daily Quota in accordance with the Graduated Entry Program Rules set out in Schedule 1;
 - (c) an allotment of Continuous Daily Quota in accordance with the New Entrant Program Rules set out in Schedule 1.1 or
 - (d) an allotment of Continuous Daily Quota in accordance with the Cottage Industry Program Rules set out in Schedule 2.
2. *The Consolidated Order of September 1, 2013 is amended by adding the following section immediately after section 14:*

Special Allotment of Continuous Daily Quota Under New Entrant Program

- 14.1 The Board may allot Continuous Daily Quota in accordance with the New Entrant Program Rules set out in Schedule 1.1.

3. *The Consolidated Order of September 1, 2013 is amended by adding the attached Schedule 1.1 immediately after Schedule 1.*
4. *Section 9 of Schedule 3 to the Consolidated Order of September 1, 2013 is replaced with the following:*

Priority Status - Buyers

9. (1) A qualified new entrant to the dairy industry may apply to the Board for priority status as a buyer on the Quota Exchange for a period not exceeding five years from the date that the qualified new entrant commenced production. Where such priority status has been granted and has not expired, offers to buy Continuous Daily Quota submitted by that qualified new entrant:
 - (a) will be 100% filled, up to a maximum of 13.7 kilograms, if there is sufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers; or
 - (b) will be filled on a pro-rated basis with other priority status purchasers, up to a maximum of 13.7 kilograms, if there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers.
- (2) A qualified entrant in the Graduated Entry Program may apply to the Board for priority status as a buyer on the Quota Exchange for a period not exceeding five years from the date that the entrant in the Graduated Entry Program commenced production. Where such priority status has been granted and has not expired, offers to buy Continuous Daily Quota submitted by that qualified entrant in the Graduated Entry Program:
 - (a) will be 100% filled, up to a maximum of 13.7 kilograms, if there is sufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily

Quota on that Quota Exchange submitted by priority status purchasers; or

- (b) will be filled on a pro-rated basis with other priority status purchasers, up to a maximum of 13.7 kilograms, if there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers.
- (3) A qualified entrant in the New Entrant Program may apply to the Board for priority status as a buyer on the Quota Exchange for a period not exceeding five years from the date that the entrant in the New Entrant Program commenced production. Where such priority status has been granted and has not expired, offers to buy Continuous Daily Quota submitted by that qualified entrant in the New Entrant Program:
- (a) will be 100% filled, up to a maximum of 8 kilograms, if there is sufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers; or
 - (b) will be filled on a pro-rated basis with other priority status purchasers, up to a maximum of 8 kilograms, if there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers.
- (3) To qualify for priority status under subsections (1), (2) or (3), the applicant must have the following qualifications:
- (a) a genuine intention to be actively engaged in milk production;
 - (b) be a Canadian citizen or permanent resident of Canada;
 - (c) be a permanent resident in the Province of British Columbia;

- (d) be at least 19 years of age at the time of application; and
 - (e) neither the applicant nor the Spouse of the applicant may have, or have had at any time, any financial interest in Continuous Daily Quota, or any other licence, permit or quota issued, allotted or granted by any other supply management commodity board or commission in Canada, whether directly or indirectly, or through any organization or entity.
- (4) An applicant for priority status may be a partnership in which case each partner must qualify under subsection (3).
 - (5) A Person who has been granted priority status under subsection (1) is ineligible to purchase Continuous Daily Quota in circumstances in which subsection 23(7) of the Consolidated Order applies for a period of 5 years from the date that priority status was granted by the Board.
 - (6) A Person who has been granted priority status under subsections (2) or (3) is ineligible to purchase Continuous Daily Quota in circumstances in which subsection 23(7) of the Consolidated Order applies for a period of 10 years from the date that priority status was granted by the Board.
5. *Section 11 of Schedule 3 to the Consolidated Order of September 1, 2013 is replaced with the following:*

Quota Exchange Date

- 11. (1) Subject to subsection (2), Quota Exchanges will be held by the Board on the 7th day of each month, or if the 7th day is not a Business Day, the next Business Day following the 7th day.
- (2) If the volume of Continuous Daily Quota subject to offers to sell exceeds the volume of Continuous Daily Quota subject to offers to buy, the offers to buy will be cleared first from offers to sell submitted by Producers intending to leave the regulated dairy industry (i.e., Priority sellers), and then by pro-rating the remaining offers to sell. Any Priority Status Continuous Daily Quota that remains unsold will carry forward to a subsequent Quota Exchange to be conducted

within two weeks using a market clearing price that has been adjusted in accordance with these Rules.

- (3) If the volume of Continuous Daily Quota subject to offers to buy exceeds the volume of Continuous Daily Quota subject to offers to sell, the offers to buy will be cleared as follows:
 - (a) Qualified new entrants to the dairy industry and qualified new entrants to the Graduated Entry Program, who have been granted priority status on the Quota Exchange, will be 100% filled, up to a maximum of 13.7 kilograms, and qualified new entrants to the New Entrant Program, who have been granted priority status on the Quota Exchange, will be 100% filled, up to a maximum of 8 kilograms, if there is sufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by all priority status purchasers;
 - (b) Qualified new entrants to the dairy industry and qualified new entrants to the Graduated Entry Program, who have been granted priority status on the Quota Exchange, will be filled on a pro-rated basis up to a maximum of 13.7 kilograms, and qualified new entrants to the New Entrant Program, who have been granted priority status on the Quota Exchange, will be filled on a pro-rated basis up to a maximum of 8 kilograms, if there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by all priority status purchasers;
 - (c) if there is sufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by all priority status purchasers, then any remaining offers to buy will be filled in equal amounts up to a maximum of 10 kilograms (and subject to the limit of the amount contained in any offer to buy), and thereafter on a pro-rated basis.

6. *Section 12 of Schedule 3.1 to the Consolidated Order of September 1, 2013 is replaced with the following:*

Priority Status

12. (1) Notwithstanding subsection 11(2), a qualified new entrant to the dairy industry may apply to the Board for priority status as a buyer on the Quota Exchange for a period not exceeding five years from the date that the qualified new entrant commenced production. Where such priority status has been granted and has not expired, offers to buy Continuous Daily Quota submitted by that qualified new entrant:
- (a) will be 100% filled, up to a maximum of 13.7 kilograms, if there is sufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers; or
 - (b) will be filled on a pro-rated basis with other priority status purchasers, up to a maximum of 13.7 kilograms, if there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers.
- (2) Notwithstanding subsection 11(2), a qualified entrant in the Graduated Entry Program may apply to the Board for priority status as a buyer on the Quota Exchange for a period not exceeding five years from the date that the entrant in the Graduated Entry Program commenced production. Where such priority status has been granted and has not expired, offers to buy Continuous Daily Quota submitted by that qualified entrant in the Graduated Entry Program:
- (a) will be 100% filled, up to a maximum of 13.7 kilograms, if there is sufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers; or

- (b) will be filled on a pro-rated basis with other priority status purchasers, up to a maximum of 13.7 kilograms, if there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers.
- (3) Notwithstanding subsection 11(2), a qualified entrant in the New Entrant Program may apply to the Board for priority status as a buyer on the Quota Exchange for a period not exceeding five years from the date that the entrant in the New Entrant Program commenced production. Where such priority status has been granted and has not expired, offers to buy Continuous Daily Quota submitted by that qualified entrant in the New Entrant Program:
 - (a) will be 100% filled, up to a maximum of 8 kilograms, if there is sufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers; or
 - (b) will be filled on a pro-rated basis with other priority status purchasers, up to a maximum of 8 kilograms, if there is insufficient Continuous Daily Quota subject to offers to sell in the monthly Quota Exchange to meet all offers to buy Continuous Daily Quota on that Quota Exchange submitted by priority status purchasers.
- (4) To qualify for priority status under subsections (1), (2) or (3), the applicant must have the following qualifications:
 - (a) a genuine intention to be actively engaged in milk production;
 - (b) be a Canadian citizen or permanent resident of Canada;
 - (c) be a permanent resident in the Province of British Columbia;
 - (d) be at least 19 years of age at the time of application; and

- (e) neither the applicant nor the Spouse of the applicant may have, or have had at any time, any financial interest in Continuous Daily Quota, or any other licence, permit or quota issued, allotted or granted by any other supply management commodity board or commission in Canada, whether directly or indirectly, or through any organization or entity.
- (5) An applicant for priority status may be a partnership in which case each partner must qualify under subsection (4).
- (6) A Person who has been granted priority status under this section is ineligible to purchase Continuous Daily Quota in any transaction that would constitute a Transfer to or from an Exempt Person or sibling for a period of 5 years from the date that priority status was granted by the Board.

SCHEDULE 1.1 - NEW ENTRANT PROGRAM RULES

Definitions

1. In these Rules:

“Independent Production Unit” means a dairy farm that is geographically and operationally separate from a dairy farm on which any other Person is actively engaged in milk production;

“Selection Committee” means a committee established by the Board and comprised of the following persons:

- (a) Two agri-business representatives appointed by the Board;
- (b) One financial services representative appointed by the Board;
- (c) One active Producer nominated by the BC Dairy Association and appointed by the Board;
- (d) One New Entrant (or Graduated Entrant) Producer appointed by the Board;
- (e) One staff member of the Board, appointed by the Board; and
- (f) One Person appointed by the Board to serve as Chair of the Selection Committee.

“Spouse” means a partner in a marriage, or a Person with whom there has been cohabitation in a conjugal relationship, having so cohabitated for a continuous period of at least one year.

Application

2. (1) The Board may from time to time call for applications to participate in the New Entrant Program, and in that event only, a Person may apply to participate in the New Entrant Program by filing with the Board:
- (a) an application form, obtainable from the Board, completed in full and signed by the applicant; and
 - (b) a non-refundable application fee of \$250.00.
- (2) A Person seeking to participate in the program must have the following qualifications:

- (a) a genuine intention to be actively engaged in milk production;
 - (b) be a Canadian citizen or permanent resident of Canada;
 - (c) be a permanent resident in the Province of British Columbia;
 - (d) be at least 19 years of age at the time of application;
 - (e) have a minimum of two years' on-farm experience (paid or volunteer), or have completed the Dairypro Program or equivalent course; and
 - (f) neither the applicant nor the Spouse of the applicant may have, or have had at any time, any financial interest in Continuous Daily Quota, or any other licence, permit or quota issued, allotted or granted by any other supply management commodity board or commission in Canada, whether directly or indirectly, or through any organization or entity.
- (3) An applicant for the New Entrant Program may be a spousal partnership in which case each spousal partner must qualify under subsection (2).
- (4) Spouses may submit only one application.

Random Draw

3. Where there are more applicants than the program can accommodate, the Board will engage an independent audit firm to randomly draw:
- (a) not more than eight applications for review by the Selection Committee, where the Board proposes to invite three applicants to enter the New Entrant Program in a single year; or
 - (b) not more than sixteen applications for review by the Selection Committee, where the Board proposes to invite six applicants to enter the New Entrant Program over two years.

Review

4. (1) Applicants will be notified when their applications have been selected for review by the Selection Committee. Those applicants will have four months from the date of such notification to provide the following to the Selection Committee:
- (a) a copy of the applicant's birth certificate or other proof of age acceptable to the Board;

- (b) proof of Canadian citizenship or permanent resident status;
 - (c) proof of permanent resident status in the Province of British Columbia;
 - (d) information concerning the proposed farm location;
 - (e) a 5-year detailed business plan;
 - (f) a 10-year general business plan;
 - (g) two letters of reference, at least one of which speaks to the applicant's dairy farm experience and/or education;
 - (h) a brief essay, which answers the question: "why do you want to be a dairy farmer and how will this program assist you to enter the dairy industry?"
- (2) Following receipt of the information and documentation described in subsection (1), the Selection Committee will interview the applicant and assign a numerical score based on the interview and on its review of the information and documentation.
- (3) After assigning a numerical score to each applicant considered by it, the Selection Committee will make recommendations to the Board concerning the applicants to be approved as new entrants by the Board.

Entry in Program

5. (1) Having regard to the recommendations made by the Selection Committee, the Board:
- (a) will invite a minimum of three applicants to enter the New Entrant Program each year;
 - (b) may establish a maximum number of applicants who will be invited to enter the New Entrant Program in a year and that maximum number may vary from year to year; and
 - (c) may, in its sole discretion, preferentially invite an applicant to enter the New Entrant Program where that applicant has a genuine intention to fulfil a niche demand.

- (2) Where an applicant is invited by the Board to become an entrant to the New Entrant Program, the following provisions apply:
- (a) the entrant shall pay to the Board a non-refundable deposit of \$1,000.00, which may be used by the entrant when the entrant first participates on the quota exchange;
 - (b) if the entrant withdraws from the New Entrant Program, the deposit is forfeit to the Board;
 - (c) the entrant shall obtain a Producer licence from the Board of the appropriate class;
 - (d) the entrant must commence production within two years from the date of the invitation, failing which the entrant's participation in the program shall be terminated
 - (e) upon receipt of the production of a qualifying entrant by a Vendor, the Board will allot to the entrant 15 kilograms of Continuous Daily Quota.

Special Restrictions on Allotments Under the Program

6. (1) Continuous Daily Quota allotted by the Board under the program may be held for production by the entrant only for so long as the entrant:
- (a) permits Board audits of the Independent Production Unit operation to ensure compliance with Board orders and all applicable legislation, including all terms and conditions of the program;
 - (b) is in good standing with all applicable Board orders and all applicable legislation, including all terms and conditions of the program;
 - (c) is actively engaged in milk production;
 - (d) is compliant with all applicable requirements under the proAction program and, in addition, attends personally for an annual proAction validation in each of the first five years of the entrant's participation in the program;
 - (e) attends at least one regional producer meeting annually and provides an update on their progress/challenges as a new farmer during the first five years of the entrant's participation in the program;

failing which the Continuous Daily Quota so allotted shall thereupon be subject to immediate cancellation on notice by the Board to the entrant.

- (2) The special restrictions on allotments described in subsection (1) shall apply for a period of ten years commencing with the entrant's entry in the program. Upon expiry of that ten-year period, the special restrictions will no longer apply to the entrant.

Matching Allotment of Continuous Daily Quota

7. (1) Where an entrant purchases or acquires Continuous Daily Quota (other than by a general allotment of new Continuous Daily Quota) within five years from the date that the entrant commences production, the Board will allot to the entrant an equivalent amount of Continuous Daily Quota, up to a maximum of 8 kilograms of Continuous Daily Quota.
- (2) Matching allotments of Continuous Daily Quota made by the Board under subsection (1) are subject to the special restrictions described in section 5.

Determination as to Whether the Entrant is Actively Engaged in Milk Production

8. (1) The Board will determine, in its sole discretion, whether an entrant is actively engaged in milk production for the purposes of the program. Without limiting the generality of the foregoing, the Board will have regard to the following factors:
 - (a) whether the Continuous Daily Quota allotted under the program is being used for the benefit of the entrant;
 - (b) whether the entrant is active in the day-to-day affairs of the Independent Production Unit, including matters of animal husbandry;
 - (c) whether the entrant operates and controls the Independent Production Unit;
 - (d) whether the entrant owns, leases or rents the Independent Production Unit;
 - (e) whether the entrant pays for feed and other farm supplies utilized on the Independent Production Unit; and
 - (f) whether the entrant enjoys the chance of profit and bears the risk of loss in relation to the operations of the Independent Production Unit.

- (2) For the purpose of determining whether the entrant is actively engaged in the production of milk, the Board shall have regard to the substance and effect of any arrangement made between the entrant and any other Person, irrespective of the form of that arrangement.
- (3) Where it appears to the Board that the entrant is primarily engaged in the business of administering Continuous Daily Quota allotted under the program, and that some other Person is primarily engaged in the business of milk production associated with that Continuous Daily Quota, the entrant shall be deemed not to be actively engaged in milk production.

Changes to the New Entrant Program

9.
 - (1) Entrants under the program are subject to all changes that the Board may make from time to time to the terms and conditions of the program.
 - (2) Notwithstanding subsection (1), the Board may, in its sole discretion, provide to an entrant a written exemption from any term or condition of the program that has come into effect after the entrant's entry into the program, in which event the entrant shall continue to be governed by the terms and conditions of the program as they existed at the time of the entrant's entry into the program except insofar as those terms and conditions may conflict with any subsequent term or condition for which a written exemption had not been granted.