

**ORDER NO. 2023-06**  
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 – *Milk Quality Regulation – Dairy Products Act*, and
- New Brunswick Farm Products Commission Order – 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 2021-07 – Milk Penalty Fund Order and replaces it with:

**ORDER 2023-06**  
**MILK PENALTY FUND 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.
  
- 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
  - 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.

**ORDER NO. 2023-06**  
AN ORDER ESTABLISHING THE MILK PENALTY FUND UNDER THE  
DAIRY FARMERS OF NEW BRUNSWICK  
(the "MILK PENALTY FUND ORDER")

**3) 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 3(a) hereof without the prior direction of the Commission; and
- c) Any amounts levied as above shall be deducted from monies due and payable by the Board to Producers.

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

a) EXCELLENT QUALITY MILK

- i) Criteria within a dairy year that need to be met to qualify
  - No Farm Premise penalty;
  - No Regulatory Somatic Cell Count (SCC) greater or equal to 400,000 cells/ml, and
  - An average of the regulatory SCC for the year of 150,000 cells/ml or less, and
  - No Regulatory Individual Bacteria Count (IBC) greater or equal to 121,000 bacteria per ml, and
  - An average of the regulatory IBC for the year of 40,000 or less;
  - No inhibitor or added water infractions; and
  - Registered on the proAction program and
  - No proAction penalty.
- ii) Producers meeting the above criteria will be ranked according to the combined ranking of the respective average results of SCC, SPC and IBC and provided with the following awards:
  - (a) The first place Producer having the best combined ranking of all Producers will be recognized as the "Producer of the Year" and awarded \$ 1,000.00 and have their farm's name registered on the Producer of the Year trophy.
  - (b) The Producer with the best SCC average of all Producers will be awarded \$500.00.
  - (c) The Producer with the best IBC average of all Producers will be awarded \$500.00.
  - (d) All Producers meeting the above criteria will be awarded a \$ 500.00 cash award along with being provided a certificate recognizing their achievement.
  - (e) The first ten Producers having the best combined ranking in SCC average and IBC average will receive 2 complimentary banquet tickets and a night's stay at the hotel where the DFNB Annual Meeting is taking place.
- 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

**ORDER NO. 2023-06**

**AN ORDER ESTABLISHING THE MILK PENALTY FUND UNDER THE  
DAIRY FARMERS OF NEW BRUNSWICK  
(the "MILK PENALTY FUND ORDER")**

- (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
  - (d) For having met the criteria 20 times – The farm’s name will be included on the 20 year commemorative plaque
- b) **RE-EARN PENALTIES PROGRAM:** Producers who succeed in obtaining milk quality test results as listed below during a 12-month consecutive period shall be reimbursed the regulatory SCC and regulatory Bacteria penalties that they paid during the 12 months previous to this period. Penalties incurred for Added Water, Inhibitors and proAction are not re-earnable under this, or any other, program of the board.
- i) Must have test results in all 12 months
  - ii) 92% of all regulatory SCC test results that are less than the unacceptable count limit set within Section 58 of Regulation 2010-19 - Quality and Premises Order under the Natural Products Act
  - iii) No SCC penalty
  - iv) 92% of all Bacteria test results that are less than the unacceptable count limit set within Section 57 of Regulation 2010-19 - Quality and Premises Order under the Natural Products Act
  - v) No Bacteria penalty
  - vi) No Added Water penalty
  - vii) No Inhibitors
  - viii) No Quota Suspensions
- c) **PROACTIVE FUNDING:** Producers who have an official unacceptable bacteria or SCC result as determined by the New Brunswick Farm Products Commission shall be compensated for the cost of a milk quality technician to a maximum of \$1,000 in any 12 consecutive month period. In order to obtain this compensation, the Producer must,
- (1) have secured the services of a milk quality technician not later than 60 days following the occurrence of the unacceptable test result, and
  - (2) have submitted to DFNB a written request to obtain Proactive compensation along with the report that shows the unacceptable test result and an invoice paid in full for the services undertaken within the allowed timeframe noted above.

**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.

**ORDER NO. 2023-06**  
AN ORDER ESTABLISHING THE MILK PENALTY FUND UNDER THE  
DAIRY FARMERS OF NEW BRUNSWICK  
(the "**MILK PENALTY FUND ORDER**")

- 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) DISSOLUTION**

- 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 August 1, 2023

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