

**ORDER 2025-04**  
AN ORDER DEFINING THE MILK MARKETING PROCESS UNDER THE  
DAIRY FARMERS OF NEW BRUNSWICK  
(the "**MILK PLAN ORDER**")

**PURPOSE:** The Board's plan is to carry out the purposes for which the Board was established. The purposes for which the Board was established are:

- (a) the promotion, control and regulation within New Brunswick of the marketing of Milk;
- (b) the promotion, control and regulation within New Brunswick of the production;
- (c) the promotion of the consumption and use of Milk; and
- (d) research activities pertaining to Milk. (the "Plan").

With this Order the Board is setting out its powers, the relevant parties involved, defining relevant terms, and outlining its Plan.

**WHEREAS** the New Brunswick Farm Products Commission (the "Commission") and the Dairy Farmers of New Brunswick (the "Board") are signatories to the National Milk Marketing Plan a Federal Provincial agreement established August 1, 1983 replacing the Interim Comprehensive Milk Marketing Plan of 1971 (hereinafter referred to as the "National Plan") under which National Plan, the Canadian Milk Supply Management Committee determines New Brunswick's amount of butterfat which in a full Quota Year is estimated to be required to meet the following:

1. New Brunswick's share of the Canadian Milk Production to meet Canadian requirements for Processed Dairy Products hereinafter referred to as the "Estimated Canadian Requirements" or "Federal Quota", and
2. New Brunswick's responsibility for Skim-off flowing from Fluid Milk Products used in the production of Processed Dairy Products, and
3. New Brunswick's Milk Production to meet Fluid Milk Products consumed in New Brunswick hereinafter referred to as "Fluid Quota".

**AND WHEREAS** the New Brunswick share of the Federal Quota, the Skim-off and Fluid Quota are hereinafter referred to as the "Provincial Quota".

**AND WHEREAS** in accordance with P(5), New Brunswick pools its Provincial Quota and based on the relevant provisions of the P(5), New Brunswick's Quota share within the P(5) is determined and hereinafter referred to as the "New Brunswick P(5) Quota".

**AND WHEREAS** by the Dairy Products Marketing Regulations under the Canadian Dairy Commission Act, the Board is authorized to allot a share of the New Brunswick P(5) Quota to any person who is entitled, or to suspend or cancel any of that portion that has been allotted and the administration of New Brunswick P(5) Quota is the responsibility of the Board under requirements set forth by the Canadian Dairy Commission.

**AND WHEREAS** by Regulation 2002-85, the Milk Plan and Levies Regulation under the Natural Products Act of New Brunswick, 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.

**AND WHEREAS** a Producer is allocated a share of the New Brunswick P(5) Quota under the National Plan, **subject to**

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1. the New Brunswick Farm Products Commission licensing a person as a Producer of Milk under s. 46 of the Natural Products Act of New Brunswick (hereinafter referred to as a "Provincial Licence"); and
2. the Board's power to determine entitlement under the Dairy Products Marketing Regulations – Canadian Dairy Commission Act and its vested power under the Milk Plan and Levies Regulation – Natural Products Act to fix and allot or refuse to fix and allot to persons Quota on such basis as the Board considers proper (s. 11(g)) (hereinafter referred to as "Market Sharing Quota" or "Producer Quota"). Furthermore the Board has the vested power to cancel, reduce, suspend, increase (s. 11(k)) or refuse to increase a Quota (s. 11(i)), and regulate or prohibit transfer of Quota (s. 11(l))

**AND WHEREAS** upon a person receiving a Provincial Licence he/she is issued a federal licence for so long as the person continues to hold a share of the Federal Quota (hereinafter referred to as a "Federal Licence").

**AND WHEREAS** the Board supervises and controls the purchase, transportation, handling, storing, delivery, sale and distribution of unprocessed Milk as well as the care and collection of milk containers.

**AND WHEREAS** the Board has the vested power to market and regulate the production of Milk and to require all 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) the Board pools revenues from the sales of Milk and Milk components produced and marketed in New Brunswick in Special Classes.

**AND WHEREAS** in accordance with P(5) the Board pools revenues from the sales of Milk and Milk components produced and marketed in New Brunswick in Fluid Milk Products, Industrial Milk and Skim-off.

**AND WHEREAS** the Board, with respect to revenues received from the sales of Milk, has the vested, authorized and delegated powers to:

1. use any money received by the Board to carry out the purposes of the Plan and to pay the expenses of the Board;
2. fix levies or charges and to impose them on and collect them from Producers and to use the levies and charges authorized under the Milk Plan and Levies Regulation – Natural Products Act to finance the operation of the Plan;
3. fix and collect periodic licence fees and charges for services rendered by the Board from any and all Producers, and for this purpose to classify such Producers into groups, and fix the licence fees and charges or either of them payable by the members of the different groups in different amounts, and to recover any such licence fees and charges or either of them in any Court of competent jurisdiction;

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4. use the levies or charges referred to **in 2 and 3 above** for the purposes of the Board, including the creation of reserves, the payment of expenses and losses resulting from the sale or disposal of Milk and the equalization or adjustment among Producers monies realized from the sale thereof during such periods of time as the Board may determine; and
5. deduct all expenses, if any, required under any agreement entered into between the Board and a milk marketing board, milk marketing agency of any province of Canada.

**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

- prescribed powers given the Board under the relevant provisions of the Natural Products Act;
- New Brunswick Regulation 2002-85 – *Milk Plan and Levies Regulation – Natural Products Act*;
- New Brunswick Regulation 2002-86 – *Milk Plan Administration Regulation – Natural Products Act*;
- New Brunswick Regulation 2010-19 – Milk Quality Regulation – Natural Products Act;
- New Brunswick Farm Products Commission Order – 2010-05 – Milk Quality & Premises Penalty Order
- delegated and vested powers, as the case may be, given the Board by the Commission, and any and all amendments or successor Commission Orders;
- The powers of directors and shareholders under section 60(1), 79(1)(a) and (b) and other relevant provisions of the *Business Corporations Act*, R.S.N.B. 1973, Chap. B-9.1, ("NBBCA");
- prescribed powers given the Board under the *Canadian Dairy Commission Act* (R.S. 1985, c. C-15, s.9.1) (the "CDC Act");
- prescribed powers under the Federal Regulation – SOR/94-466 - *Dairy Products Marketing Regulation – CDC Act*;
- prescribed powers under The Federal Regulation – SOR/94-627 - *New Brunswick Milk Order – Agricultural Products Marketing Act*, and amendments or successor legislation thereto;
- The Boards signatory rights and powers agreed to and provided for under the National Plan, P(10), and P(5);

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**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 2020-01 – Milk Plan Order and replaces it with:

**ORDER 2025-04**  
**MILK PLAN**

**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.

**Agreements** means

- a) the National Plan with accompanied Memorandum of Agreement and Appendix;
- b) Comprehensive Agreement on Special Classes or P10, and amendments thereto, (hereinafter referred to as "P10"); and
- c) Agreement on All Milk Pooling or P5, and amendments thereto, (hereinafter referred to as "P5").

The National Plan, P10 and P5 are collectively referred to as the Agreements and independently as the National Plan, P10 or P5.

**Due Board** Any financial obligation owed to the Board by a Producer, which obligation may include, but is not limited to, levies, charges, Board expenses and penalties.

**License** means a Producer Licence, Provincial Licence and Federal Licence when referred to independently and a Licence when referred to collectively.

**Milk** means milk from cows as defined in Canadian Dairy Commission Act and the Natural Products Act and means milk and cream as defined in the National Plan.

**Harmonized Milk Classification System:** In order to manufacture dairy products, processors must obtain their milk supply from the Board. This milk is sold to processors according to a harmonized milk classification system which is made publicly available through the Canadian Dairy Commission.

**Fluid Milk Products** means any dairy product categorized as Class 1 within the Harmonized Milk Classification System.

**Processed Dairy Products** means any product categorized as Classes 2, 3 and 4 within the Harmonized Milk Classification System.

**Special Classes** This classification reflects the wording of the Comprehensive Agreement on Pooling of Milk Revenues and means any dairy product categorized as Class 5 within the Harmonized Classification System.

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**Skim-off** is the amount of cream calculated in terms of butterfat, recovered from standardization of the butterfat content of Class 1 products and used in the production of non-Class 1 products.

**Quota** means Federal Quota, Provincial Quota, New Brunswick P5 Quota, Producer Quota, Daily Quota, and Monthly Quota when referred to independently and means Quota when referred to collectively. **Quota** is measured by:

**Daily Quota** represents the daily Production entitlement allocated to Producers by the Board to bring forward sufficient Production to fulfil the New Brunswick P5 Quota. Daily Quota is expressed in kilograms and tenths and hundreds thereof of butterfat; the Board has the authority to designate types of Daily Quota (ie. Temporary, Loaned, Catastrophe, Host, etc...) and has the authority to establish conditions on each type of quota so designated (ie. Transferable, Non-Transferable, included or excluded from general quota adjustments, accumulates credits or not, etc...)

**Monthly Quota** shall be determined by multiplying the Producer's Daily Quota by their Quota Days in the current period.

**Quota Days** shall be calculated by counting the number of days beginning on the day following the last pick up of the previous month until and including the last pick up day of the current month. If quota days as counted are less than the total number of calendar days in the current month less one, then the quota days for that month shall be equal to the number of calendar days in that month. The last calendar day of the current month will then be deemed as the last pick up day for the next month's quota day calculation. In any given month quota days shall never exceed the total calendar days plus one.

**Quota**, the amount of which is calculated and allocated for certain periods, that is:

**Quota Year** means the period of allocation of the Federal Quota, typically between August 1 and July 31; and

**Dairy Year** means a 12-month period commencing on each August 1<sup>st</sup>.

**Quota** shall be transferred by Quota Exchange or such other method as approved by the Board.

**Quota Exchange** means that definition given it in the Daily Quota Transfer Order.

**Credits** flow from Daily Quota and are made available to Producers by the Board in recognition of the difficulties associated with exactly matching Monthly Production to Monthly Quota and are represented as the continuous accrual of the difference between a Producers Monthly Production of butterfat and Monthly Quota. The Board restricts the accrual of the difference within prescribed Credit limits as follows:

**Maximum Credits** is set at [(+)10] times a Producer's Daily Quota. Any positive difference that remains after Credits are accrued up to the Producer's Maximum Credits shall be subject to the terms and conditions set out in the **Producer Milk Pooling Order**.

**Minimum Credits** is set at [(-)15] times a Producer's Daily Quota.. Any negative difference remaining after Credits are accrued down to the Producer's Minimum Credits

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shall be deemed by the Board to be un-accruable in the hands of the Producer and referred to as lost production.

**Incentive Credits** may be issued by the Board from time to time to encourage production for a set period of time and the Board will define the rules by which the Producers may access these credits (ie. must have produced above monthly quota to access incentive credits).

**Credit Limits** may be imposed by the Board from time to time to discourage production for a month or multiple months. When Credit Limits are in effect, all Production exceeding a Producer's Monthly Quota, Incentive Credits and the Credit Limit will not be tabulated against the Producer's prior month Credits. Instead that production will be deemed over quota and be paid in accordance with the Monthly Pooling Order and be subject to any applicable Over Quota levy. Production below a Producer's Monthly Quota will continue to be accrued down to the Producer's Minimum Credits regardless of whether the Credit Limit is in effect or not.

**Plan** means the purposes of the Board as set out in Part 1 of the Milk Plan and Levies Regulation – Natural Products Act.

**Producer** means a person who holds a valid License under the Natural Products Act to produce, sell and supply milk from his or her own herd to the Board and who is in the process of obtaining or has obtained an allotment of Daily Quota in accordance with the Daily Quota Transfer Order and who complies with the requirements set out in the Daily Quota Order and other Board Orders.

**New Entrant** means a Producer that has been granted certain provisions under the New Entrant Order and other Board Orders.

**Production** means the amount of Milk produced on the farm and sold to the Board and is measured by Monthly Production.

**Monthly Production** means the total litres of Milk picked up in a calendar month including any milk a Producer retained for on-farm processing activities reported to the Board and the kilograms of butterfat, protein and lactose and other solids calculated by the Board using the Producer's component tests provided to the Board by a laboratory service that is accredited by the Standards Council of Canada (SCC) ISO/IEC 17025.

**Transfer** means the exchange of Daily Quota between Producers as authorized by the Board as defined in the Daily Quota Transfer Order.

2) **THE PLAN**

To effect its purpose, and to carry out its Plan, the Board:

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- i) Promotes the consumption and use of Milk;
- ii) Research activities pertaining to Milk;
- iii) Requires Milk to be marketed or produced and marketed on a Quota basis;
- iv) Regulates or prohibits the transfer of Quota and imposes such conditions and procedures on the transfer of Quota as the Board considers proper;
- v) Supervises and controls the purchase, transportation, handling, storing, delivery, sale and distribution of unprocessed Milk as well as the care and collection of milk containers;
- vi) Requires the price or prices payable or owing to persons for Milk to be paid to or through the Board and to recover such prices or prices in a court of competent jurisdiction;
- vii) Requires a Producer to offer to sell and to sell Milk only to or through the Board and pools the revenues from such sales of Milk;
- viii) Pools revenues from the sale of Milk in accordance with its duties and responsibilities as a signatory to the National Plan, P(10), P(5) and the Commission's Orders;
- ix) Fixes levies, charges and penalties for those purposes established by the Board and collect the levies, charges and penalties and all Board expenses from money received by the Board; and
- x) Will make such orders as are considered by the Board necessary or advisable to regulate effectively the marketing or the production and marketing of Milk.

This Order takes effect March 1, 2025

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