
THE FARM PRODUCTS MARKETING ACT
(C.C.S.M. c. F47)

Milk Marketing Quota Order, amendment*

Regulation 152/2013
Registered October 15, 2013

Manitoba Regulation 59/2006 amended

1 The Milk Marketing Quota Order, Manitoba Regulation 59/2006, is amended by this Order.

2 Section 2 is replaced with the following:

Allotment and re-allotment of daily quota to be approved by the board

2 Every allotment or re-allotment of daily quota to a producer must be approved by the board.

3 Section 37 is replaced with the following:

Re-allotment under system

37(1) Every registered producer or eligible person may offer to cancel daily quota on the Monthly Quota Exchange System in accordance with the terms, conditions and policies set out in Schedule C.

37(2) Only an eligible bidder or eligible person may bid for daily quota on the Monthly Quota Exchange System in accordance with the terms, conditions and policies set out in Schedule C.

37(3) An eligible bid can only be for an amount of daily quota allowed for the category of milk quality which the registered producer has attained as defined in Schedule C.

37(4) The designated staff referred to in Schedule C will operate the Monthly Quota Exchange System in accordance with the terms, conditions and policies set out in Schedule C. No allotment or re-allotment of quota is effective until approved by the board.

* This Order is made under the *Dairy Farmers of Manitoba Marketing Plan Regulation*, Manitoba Regulation 89/2004, and is Order No. 1, 2013 of Dairy Farmers of Manitoba

4 Schedules A and B are repealed.

5 Schedule C to this Order is added as Schedule C to the Order.

6 This Order comes into force on August 1, 2013, or on the date it is registered under *The Regulations Act*, whichever is later.

August 20, 2013

Dairy Farmers of Manitoba

David Wiens
Chair

Brent Achtemichuk
Secretary

APPROVED

September 26, 2013

Manitoba Farm Products Marketing Council

Ken Caldwell
Chair

Debora Durnin-Richards
Secretary

SCHEDULE C
(Section 37)

MONTHLY QUOTA EXCHANGE SYSTEM

Quotas belong to the board

1 Despite the terms and provisions in this schedule or of any forms or materials used in connection with this schedule, as stated in section 6 of the Order, quotas belong to the board and any daily quotas allotted pursuant to the procedure set out in this schedule may be suspended, reduced or cancelled in accordance with the Order.

No assignment of payment

2 As stated in section 8 of the Order, no person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment from a monthly quota exchange system to another person without the prior written consent of the board.

Definitions

3 The following definitions apply in this schedule.

"**bid**" means an application to be allotted an eligible amount of daily quota under a monthly quota exchange program upon payment of a program fee pursuant to the procedure set out in this schedule.

"**bidder**" means an eligible bidder or an eligible person who in the opinion of the designated staff has submitted a bid for an eligible amount of quota in an acceptable form, and has provided satisfactory evidence of financial responsibility with respect to such bid.

"**contravention**" means a contravention of any of the requirements in the *Milk Quality Regulation*, Regulation 168/2007.

"**designated staff**" means those employees and other individuals designated by the Board from time to time, to operate the monthly quota exchange system.

"**eligible amount**" means:

- (a) an amount of quota of 20 kg of butterfat of daily quota annually for an eligible bidder;
- (b) an amount of quota of 40 kg of butterfat of daily quota annually for an eligible bidder Merit;
- (c) an amount of quota of that is unlimited of butterfat of daily quota annually for an eligible bidder Gold.

"eligible bidder" means a registered producer who has not had a contravention in the latest 12-month period.

"eligible bidder Merit" means an eligible bidder whose milk quality has met the following standard: SCC - all monthly SCC tests must be less than 400,000 with the best 11 out of 12 month SCC average being less than 200,000; IBC - all monthly IBC tests must be less than 40,000 with the best 11 out of 12 month IBC average being less than 30,000.

"eligible bidder Gold" means an eligible bidder whose milk quality has met the following standard: SCC - all monthly SCC tests must be less than 300,000 with the best 11 out of 12 month SCC average being less than 150,000; IBC - all monthly IBC tests must be less than 30,000 with the best 11 out of 12 month IBC average being less than 20,000.

"eligible person" means a person who is not a registered producer but who has met the criteria set out to become a registered producer.

"exchange clearing price (ECP) of a monthly quota exchange system" means the least amount, expressed in dollars and cents per kilogram or 1/100 of a kilogram of butterfat of daily quota, at which the cumulative volume (in an ascending order of amounts) of kilograms or 1/100 of a kilogram of butterfat offered for cancellation equals or most closely equals the cumulative volume (in a descending order of amounts) of kilograms or 1/100 of a kilogram of butterfat of daily quota requested for allotment.

"monthly quota exchange system" means the procedure operated from time to time for daily quota pursuant to this schedule, whereby a registered producer may offer to have the whole or a portion of the daily quota allotted to him cancelled in the manner provided in this schedule, and a registered producer or an eligible person may bid to have daily quota allotted to him in the manner provided in this schedule.

"offer" means an application to have daily quota cancelled under a monthly quota exchange system upon receipt of a program payment pursuant to the procedure set out in this schedule.

"offeror" means a registered producer who in the opinion of designated staff has submitted an offer in an acceptable form with respect to daily quota allotted to him or her by the board.

"quota" means a daily quota.

"reallocation day" means the day on which a monthly quota exchange system is operated.

"reserve" means an account established by the board to which any daily quota acquired on behalf of the reserve to balance a monthly quota exchange system in the manner contemplated by subsection 7(13) is credited and to which any monies received for daily quota added to balance a monthly quota exchange system in the manner contemplated by subsection 7(12) are credited.

Monthly quota exchange system administration

4(1) The monthly quota exchange system will be operated by the designated staff. The designated staff shall be responsible for establishing the date of each reallocation day, publishing such dates, receiving and processing offers and bids, operating each monthly quota exchange system, reporting the results to the board.

4(2) The Manitoba council may appoint members of its staff to act as observers and auditors of each monthly quota exchange system. Except as provided in this schedule, all particulars with respect to an individual offer or to an individual bid shall be kept confidential by designated staff and Manitoba council observers and auditors and shall not be disclosed to the members of Dairy Farmers of Manitoba, Dairy Farmers of Manitoba staff who are not designated staff, or any other person whatsoever.

4(3) The board may prescribe forms to be used in the operation of a monthly quota exchange program from time to time.

Program fund

5 All program fees paid by successful bidders shall be credited to the program fund. The program fund shall be used to make program payments to successful offerors.

Program fees and program payments

6(1) In this schedule, and in all forms and materials used in connection with the monthly quota exchange system, all references to program fees and all references to program payments shall be expressed or shall be assumed to be expressed on a kilogram or 1/100 of a kilogram of butterfat of daily quota basis.

6(2) Each program fee paid by a successful bidder must be paid on each kilogram or 1/100 of a kilogram of butterfat allocated.

6(3) Each program payment paid to a successful offeror will be paid on each kilogram or 1/100 of a kilogram of butterfat of daily quota cancelled.

Monthly quota exchange system procedures

7(1) Designated staff may operate a monthly quota exchange system on the first regular business day following the last day of each calendar month. At least one bidder and at least one offeror will be required to operate a monthly quota exchange system.

7(2) Designated staff may cancel, or may postpone for up to seven days at anytime, the operation of any monthly quota exchange system for any reason they deem advisable.

7(3) A registered producer or an eligible person wishing to participate in a monthly quota exchange system must submit either an offer or a bid in writing, either by letter, telefax, or electronic mail, in a form satisfactory to the designated staff to the board's head office which must be received by the designated staff prior to 4:00 p.m. of the last regular business day before the month in which the proposed monthly quota exchange system is held.

7(4) Each offer on a particular monthly quota exchange system must include the following information:

- (a) the amount of daily quota expressed in kilograms or 1/100 of kilograms of butterfat offered for cancellation;
- (b) the program fee, to the nearest cent per kilogram of butterfat, which the offeror is willing to accept upon cancellation of the quota offered for cancellation;
- (c) the date of the monthly quota exchange system (the month) to which the offer applies;
- (d) the name, address and signature of the offeror;
- (e) the producer registration number of the offeror.

7(5) Each bid on a particular monthly quota exchange system must be for an eligible amount of quota and must include the following information:

- (a) the amount of daily quota in kilograms or 1/100 of kilograms of butterfat requested for allotment;
- (b) the program fee to the nearest cent per kilogram of butterfat which the bidder is willing to pay upon allotment of the daily quota requested for allotment;
- (c) the date of the monthly quota exchange system (the month) to which the bid applies;
- (d) the name, address and signature of the bidder;
- (e) the producer registration number of the bidder, where applicable.

7(6) In the case of an omission or defect in a bid or in an offer, the designated staff may not make any changes or additions to such bid or offer, and the bid or offer will be rejected, unless the bid or offer is amended as set out in subsection (7). The fact that a bid or offer is rejected shall not preclude the bidder or offeror from submitting a subsequent bid or offer.

7(7) Any offer or bid may be amended or withdrawn, provided such withdrawal or amendment is either in writing and in the form of a letter or telefax or electronic mail sent by the bidder or the offeror, or by a telephone call received by at least two of the designated staff and is received by the designated staff at the head office of the board prior to 4:00 p.m. of the last working day before the first day of the month in which the monthly quota exchange system is to be held. Such withdrawal or amendment must be clear and unambiguous and must identify the bidder or offeror by name and producer registration number, where applicable, and must specify the offer or the bid that is to be withdrawn or amended.

7(8) Any offer or bid which is received after any deadline for submission for the system will be rejected by the designated staff.

7(9) As provided in subsection 36(2) of this Order, the designated staff may refuse to accept or may postpone the processing of any bid or any offer. The designated staff may require an offeror to provide proof of the consent of any secured creditor of the offeror to the submission of such offer. Any decision to postpone the processing of a bid or an offer, or to reject a bid or an offer made by the designated staff shall be final. The designated staff may also establish terms and conditions before a bid or an offer will be processed in the future. Any person who is not satisfied with the terms and conditions established by the designated staff before a bid or offer will be processed in the future may appeal such decision in writing to the board.

7(10) On reallocation day, the designated staff shall proceed to match as closely as possible the cumulative volume of daily quota, in an ascending order of amounts offered in the offers with the cumulative volume of daily quota, in a descending order of amounts submitted in the bids. This procedure shall be known as "clearing" a monthly quota exchange system. The exchange clearing price (ECP) as determined by clearing a monthly quota exchange system shall be the least amount at which the cumulative volumes most closely match and shall be the amount of the program fee payable to Dairy Farmers of Manitoba by a successful bidder and the amount of the program payment payable by Dairy Farmers of Manitoba to a successful offeror under that monthly quota exchange system.

7(11) Subject to subsection (12) and to the acceptance of the results by the board under subsection (14),

(a) if a bidder has submitted a bid at an amount equal to, or higher than the exchange clearing price on a system then that bid shall be deemed to be successful and the bidder shall pay to Dairy Farmers of Manitoba an amount equal to the exchange clearing price representing the full amount of the program fee payable by the bidder for the amount of daily quota bid on or before the last working day of the month for that monthly quota exchange system; or

(b) if an offeror has submitted an offer at an amount equal to, or lower than, the exchange clearing price on a system, then that offer shall be deemed to be successful and the offeror shall be entitled to receive from Dairy Farmers of Manitoba a program payment equal to the exchange clearing price for the amount of daily quota offered for cancellation on or before the last working day of the month of that monthly quota exchange system.

The designated staff shall contact each successful bidder and advise the bidder of the amount to be paid to Dairy Farmers of Manitoba on or before the last working day of the month of the monthly quota exchange system.

7(12) Upon the clearing of a monthly quota exchange system, if it is determined by the designated staff that, at the exchange clearing price, the cumulative volume of daily quota in the bids exceeds the cumulative volume of daily quota in the offers, designated staff shall add to the monthly quota exchange system on behalf of the reserve, at the exchange clearing price, an amount of daily quota sufficient to balance the amount offered and the amount bid; or, at the option of the designated staff, the successful bidders shall be deemed to have bid, at the exchange clearing price, a percentage of their bid, based on the ratio of the daily quota comprising the successful offers to the daily quota comprising the successful bids.

7(13) Upon the clearing of a monthly quota exchange system, if it is determined by the designated staff that, at the exchange clearing price, the cumulative volume of daily quota in the offers exceeds the cumulative volume of daily quota in the exchange system on behalf of the reserve, at the exchange clearing price for any excess daily quota; or, at the option of the designated staff, the successful offerors shall be deemed to have offered, at the exchange clearing price, a percentage of their offer, based on the ratio of the daily quota comprising the successful bids to the daily quota comprising the successful offers.

7(14) Following the conduct of a monthly quota exchange system, the designated staff shall report to the board the number of bids received, the number of offers received, the number of kilograms of butterfat and the amounts bid or offered in each bid or offer, together with the exchange clearing price and particulars of the successful bids and successful offers. The board will review such report and if satisfied, in its sole discretion, that there have been no irregularities or deficiencies in the operation of the monthly quota exchange system and that all bidders were eligible to bid and bid for an allowable amount, the board may pass a resolution to accept such results.

7(15) Following the acceptance of the result of a monthly quota exchange system, the board will pass a resolution to allot daily quotas to successful bidders and to cancel daily quota of successful offerors in order to implement such results.

7(16) The allotment and cancellation of daily quotas will be effective as of the first day of the month following the month in which the monthly quota exchange system was conducted.

7(17) Following the board's consideration of the results of a monthly quota exchange system, each participant in the monthly quota exchange system will be advised in writing by the designated staff whether his or her offer or bid was successful.

7(18) Failure by a bidder to pay the exchange clearing price on or before the last working day of the month of a monthly quota exchange system shall entitle the designated staff to cancel the bid whereupon that daily quota shall be credited to the reserve. Dairy Farmers of Manitoba may offer to cancel any daily quota in the reserve on a future monthly quota exchange system. Additionally, any failure by a bidder to pay the exchange clearing price in accordance with the terms hereof shall be grounds to prohibit the bidder from participating in any subsequent monthly quota exchange system.

Limits on bids and offers

8(1) An offer which would result in the remaining daily quota allocated to that offeror being reduced to a level below 10 kg of butterfat will be rejected by the designated staff. Any offeror allotted a daily quota of kilograms of butterfat or less must offer to cancel all such daily quota to be eligible to be an offeror on a monthly quota exchange system. No bid of less than one-hundredth of a kilogram of butterfat will be processed.

8(2) More than one bid or more than one offer may be made on the same monthly quota exchange system by the same person. A bidder shall not be allowed to be an offeror on the same monthly quota exchange system and neither the bid nor the offer will be processed.

Program fund

9(1) All program fees paid to Dairy Farmers of Manitoba by successful bidders will be allocated to the program fund.

9(2) All program payments made by Dairy Farmers of Manitoba to successful offerors will be paid from the program fund.

Information

10 Dairy Farmers of Manitoba will forward to each registered producer in a format approved by Dairy Farmers of Manitoba, within 15 days after the acceptance of the results of a monthly quota exchange system by Dairy Farmers of Manitoba, the results of such system.

Effective date of schedule

11 This schedule takes effect for the first quota exchange that is at least 31 days after this order comes into effect. On the first quota exchange all eligible bidders will be deemed to be eligible bidders Gold. Each successive quota exchange will be based upon the registered producer's quality rolling average beginning with the month prior to this schedule coming into effect.