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Milk Marketing Quota Order*

Regulation 70/99
Registered April 12, 1999

CONTENTS

Section

PART 1
INTERPRETATION

1 Definitions

PART 2
ALLOCATION OF QUOTA

2 Application for registration as a producer
3 Criteria for registration as a producer
4 List to indicate daily quota
5 Amendments to list

PART 3
REDUCTION OR CANCELLATION OF DAILY QUOTA

6 Reduction of daily quota for anticipated undermarketings
7 Cancellation of daily quota for failure to market
8 Relief from cancellation
9 Cancellation of daily quota on retirement, death, winding up, etc.
10 Cancellation of daily quota on cancellation of registration
11 Other reduction or cancellation of daily quota

* This Order is made under section 17 of the *Manitoba Milk Producers' Marketing Plan Regulation*, Manitoba Regulation 247/87 R, and is Order No. 1, 1999 of Manitoba Milk Producers.

PART 4
NON-TRANSFERABILITY OF DAILY QUOTA AND PROCEEDS

12 Quota belongs to the Board
13 Quota non-transferable by producer
14 Monthly quota exchange system proceeds not transferable

PART 5
PROHIBITIONS

15 Prohibitions

PART 6
GENERAL

16 Effect of sharing
17 Step-transactions prohibited

PART 7
CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

18 Definitions
19 Transfers by a substantial holder
20 Bankruptcy or receivership of a controlling party
21 False or misleading information re transfers
22 Reduction of requirements re certain transfers

PART 8
ASSOCIATION OF REGISTERED PRODUCERS

23 Deemed association
24 Association of registered producers
25 False or misleading information re association

PART 9
RE-ALLOTMENT OF QUOTA

26 Complete farm sales
27 Lease of a complete farm
28 Bankruptcy or receivership of a registered producer
29 Re-allotment of daily quota on death, disability or retirement
30 Re-allotment of daily quota on establishment of family partnership
31 Re-allotment of daily quota on establishment of a corporation
32 Partial and complete re-allotment of daily quota to related persons
33 Re-allotment of daily quota on merger of registered producers

PART 10
MONTHLY QUOTA EXCHANGE SYSTEM

34 Re-allotment under system
35 Acceptance of applications discretionary

PART 11
FACILITIES

36 Quota to be allotted for a facility
37 Standards for equipping and operating facilities
38 Relocation of facilities
39 Emergency relocation
40 Examination of facilities

PART 12
REPEAL AND COMING INTO FORCE

41 Repeal
42 Coming into force

SCHEDULE "A" - Monthly Quota Exchange System

SCHEDULE "B" - Cream Conversion System

PART 1

INTERPRETATION

Definitions

1 In this order,

"Board" means Manitoba Milk Producers or the Board of Directors of Manitoba Milk Producers, or both, as the context may require;

"cow" means a mature female of domestic cattle, species *Bos taurus*;

"daily quota" means a base, expressed in kilograms of butterfat per day, allotted to a registered producer by the Board;

"dairy cows" means cows kept by a registered producer for the purpose of marketing milk from such cows;

"dairy year" means the twelve month period commencing August 1st in each year and ending July 31st in the following year;

"facility" means any building, structure, equipment or land used in connection with the production of the regulated product;

"immediate family" means an individual's grandfather, grandmother, father, mother, husband, wife, son, daughter, brother, sister, grandson, granddaughter, son-in-law, daughter-in-law, grandson-in-law and granddaughter-in-law;

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

"multi family unit" means two or more persons who keep dairy cows, in partnership, or in circumstances where there is a sharing by them, whether familial, communal or otherwise, of facilities, labour or services provided directly or indirectly by all or any of them, or pursuant to a contract jointly or severally with the same corporation, firm or individual.

PART 2

ALLOTMENT OF QUOTA

Application for registration as a producer

2 A person may apply to the Board for registration as a registered producer.

Criteria for registration as a producer

3 Each applicant for registration as a registered producer must meet the following criteria:

(a) the applicant must be the registered owner or the sole operator of a dairy farm that meets all of the requirements for buildings, equipment, operation, and herd health set out in *The Dairy Act* and the regulations made under that Act;

(b) the dairy farm referred to in clause (a) of the applicant must be in an acceptable location for milk pick-up and must meet the Board's driveway policy; and the applicant must agree to pay to the Board the transportation charges to be applied to his deliveries basis the monthly pick-up charges established from time to time; and

(c) if the applicant is a new producer, the applicant must be entitled to be allotted a daily quota of at least 1 kilogram of butterfat per day.

List to indicate daily quota

4 Subject to the provisions of this order, a registered producer's daily quota shall be equal to the number of kilograms of butterfat per day shown opposite his name under the column "daily quota" on the list of registered producers approved by the Board on the 30th day of July, 1991, as same may be amended by resolution of the Board from time to time to reflect alterations or additions or deletions to same.

Amendments to list

5(1) The Board may also, by resolution, amend the list referred to in section 4 from time to time to

(a) increase or decrease the daily quota of registered producers on a pro rata basis (or on such other basis as may be determined by the Board) to reflect the share of the estimated Canadian requirements for milk available for production in Manitoba in any period of time;

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

(b) as provided in this Order; or

(c) to otherwise distribute equitably among registered producers a share of the market for milk anticipated to be produced in Manitoba.

5(2) The Board may also increase the daily quota of each registered producer (or of the person to whom the daily quota of such producer was re-allotted under Part 11) by the number of kilograms shown opposite that producer's name on the list referred to in section 4 under the column "cutback" as same may be amended from time to time.

5(3) In the event that a producer does not fill 98% of his daily quota in the month that it is issued, that portion of unused daily quota that is the difference between the producer's total production for the month and 98% of the producer's total monthly quota shall be set aside as unused quota credits. Unused quota credits may be made available to the producer in a future month when his production exceeds the producers quota.

No registered producer shall hold more than 30 times his daily quota as unused quota credits at any time. Any quota credits in excess of 30 times his daily quota that are the result of under-utilization of quota shall be subject to the provisions of section 6, section 7 and section 11 hereof.

5(4) The Board may, upon special request by a registered producer, grant special quota credits in addition to that producer's daily quota and unused quota credits in circumstances where the registered producer has suffered a catastrophe. Any special quota credits granted by the Board shall be granted subject to specific terms and conditions to be set by the Board at the time such credits are granted and may be used by the registered producer when his production in any month exceeds 30 times his daily quota.

PART 3

REDUCTION OR CANCELLATION OF DAILY QUOTA

Reduction of daily quota for anticipated undermarketings

6 The daily quota of a registered producer may be reduced for the balance of a dairy year if such producer's marketings during a portion of that dairy year are such that the Board anticipates that such producer will not market a quantity of butterfat in the form of milk during that dairy year equal to the total amount of butterfat in the form of milk he is entitled to deliver pursuant to his daily quota.

Cancellation of daily quota for failure to market

7 Where a registered producer fails to market milk through the Board for two consecutive calendar months, the daily quota allotted to such producer may be cancelled by the Board.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

Relief from cancellation

8 The Board may exempt a registered producer from the provisions of section 6 and section 7 or otherwise modify the impact of same, if such registered producer

(a) has received permission from the Board in writing, because of major repairs and/or renovations to his facility, to temporarily curtail milk marketing, provided a written application for such permission has been received by the Board at least one month in advance of the commencement of such major repairs and/or renovations;

(b) was unable to market all of his milk because such milk did not meet the standards established by the Board for acceptable milk, provided satisfactory proof as to the quantum of such milk and its disposal is submitted to the Board in writing;

(c) was unable to market a quantity of milk because of a catastrophe. For the purpose of this clause a catastrophe must be a situation over which the producer has little or no control and which suddenly affects the production of his dairy cows. A catastrophe may include a severe illness or the death of a principal day to day operator of the milk production business, the sudden death of a significant portion of a dairy herd, the destruction of a producer's facilities by fire or some other cause beyond his control, a severe infection of the dairy cows in his herd by an uncontrollable disease or disease which requires the slaughter of the dairy cows by public health authorities. The producer must apply to the Board in writing as soon as reasonably possible following such event;

(d) has received permission from the Board in writing, to reduce or close down his facility as a result of a notification to the Board in writing that he plans to offer the daily quota allotted to him on the Monthly Quota Exchange System, subject to such terms and conditions as the Board may establish at the time such permission is granted; or

(e) has otherwise obtained permission from the Board in writing to reduce his marketings for a period of time, subject to such terms and conditions as the Board may establish at the time such permission is granted.

Cancellation of daily quota on retirement, death, winding up, etc.

9(1) The Board may cancel a daily quota in the event of the death of a registered producer, the winding up or dissolution of a registered producer that is a corporation, or the dissolution of a registered producer that is a partnership.

9(2) The Board may also cancel the daily quota allotted to a registered producer in the event a registered producer receives permission from the Board under clause 8(d) or 8(e) and fails to meet the terms and conditions established by the Board in granting such permission.

Cancellation of daily quota on cancellation of registration

10 The daily quota of a person shall be automatically cancelled in the event he ceases to be a registered producer.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

Other reduction or cancellation of daily quota

11 The Board may suspend, reduce or cancel, either on a temporary basis or on a permanent basis, a daily quota

(a) as set out in this Order;

(b) where a registered producer has failed to comply with any regulation, order, or directive of the Board;

(c) where a registered producer has failed to comply with the regulations under *The Dairy Act*, or where his dairy farm fails to meet the requirements for building, equipment, operation, and herd health set out in *The Dairy Act* or regulations made under that Act;

(d) where a registered producer delivers milk that does not meet the standard of acceptable milk as defined by an order or regulation of the Board;

(e) where a registered producer has entered into a contract or agreement that would deprive him of his right to the proceeds from the marketing of milk produced by his dairy cows or to his right to the proceeds from the Monthly Quota Exchange system;

(f) where a registered producer becomes insolvent or bankrupt or applies for a receiving order or has such an order made against it or takes any benefit from any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to the facilities used by a registered producer; or

(g) if the Board has reasonable grounds for believing that such action is in the interests of Manitoba producers and the milk industry.

PART 4

NON-TRANSFERABILITY OF DAILY QUOTA AND PROCEEDS

Quota belongs to the Board

12 Quotas belong to the Board.

Quota non-transferable by producer

13 No person shall

(a) transfer, assign, or sell a daily quota to another person; or

(b) offer to transfer, assign, or sell a daily quota to another person, or receive payment for a daily quota, or offer to buy a daily quota from a producer, or make a payment to a producer for a daily quota.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

Monthly quota exchange system proceeds not transferable
14 No person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment to the receipt of proceeds from the Monthly Quota Exchange System to another person without the prior written consent of the Board.

PART 5

PROHIBITIONS

Prohibitions
15(1) Except as authorized by the Board in writing, no person shall market milk unless he has been allotted a daily quota by the Board.

15(2) No person to whom a daily quota has been allotted shall market milk other than milk taken from dairy cows in or on a facility situate on the location that has been specified by the Board for the milking of his dairy cows.

15(3) No person to whom a daily quota has been allotted shall market milk except to the Board.

PART 6

GENERAL

Effect of sharing
16 Where two or more persons keep dairy cows in partnership, or in circumstances in which there is a sharing by them whether familial, communal, or otherwise, of facilities, equipment, labour or services provided directly or indirectly by all or any of them, or pursuant to a contract jointly or severally with the same corporation, firm, or individual, for the purpose of this Order, the milk marketed by one of those persons may be treated by the Board as having been marketed by the other or others.

Step-transactions prohibited
17 Notwithstanding anything contained in this Order, the Board may take appropriate action to prevent a person from acquiring control of, or acquiring a direct or indirect interest in daily quotas through a process:

(a) that involves more than one application to the Board; or

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

(b) that does not disclose to the Board, in conjunction with an application to the Board for any re-allotment of a daily quota, particulars of all contemplated or proposed future transactions which may involve

(i) a subsequent re-allotment of a daily quota,

(ii) a future change in the legal or beneficial ownership of an entity, or

(iii) an application to transfer a daily quota from one facility to another facility.

PART 7

CHANGES IN BENEFICIAL OWNERSHIP OF REGISTERED PRODUCERS

Definitions

18 In this part,

"controlling party" means a person who directly or indirectly is the legal or beneficial owner of an aggregate of more than 50% of any class of the issued shares of, assets of, or interest in an entity;

"entity" includes an association, partnership, body corporate, trust or other organization;

"substantial holder" means a person who directly or indirectly is the legal or beneficial owner of an aggregate of 10% or more of any class of the issued shares of, assets of, or interest in an entity;

"transfer" includes a sale, purchase, mortgage, declaration of trust, or any change in legal or beneficial ownership or rights whatsoever.

Transfers by a substantial holder

19 In the event all or part of the beneficial or legal ownership of an interest of a substantial holder in an entity that is a registered producer is transferred by the legal or beneficial owner of such interest, the Board may cancel or reduce the daily quota of such registered producer unless the parties to such transfer have requested in writing that the Board waive this provision and have each provided the Board, by Statutory Declaration and Certificate in a form acceptable to the Board, with full particulars of the proposed transfer, and any other information required by the Board with respect to the assets and liabilities of the entity at the effective date of such transfer, and the Board has in its discretion waived this provision either conditionally or unconditionally.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

Bankruptcy or receivership of a controlling party

20 In the event a controlling party in an entity that is a registered producer becomes bankrupt or applies for a receiving order or has a receiving order made against it or takes the benefit of an Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to any interest of the controlling party in such registered producer, the Board may cancel or reduce the daily quota of such registered producer unless the registered producer or the trustee or receiver requests in writing that the Board waive this provision and provides the Board, by Statutory Declaration and Certificate in a form acceptable to the Board, with full particulars of such happening and the Board has in its discretion waived this provision either conditionally or unconditionally, provided however that the Board will only waive this provision on a temporary basis, and on terms and conditions, in order to allow the trustee in bankruptcy or receiver reasonable time to dispose of such interest in the controlling party.

False or misleading information re transfers

21 In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration or Certificate is false or misleading, or that any conditions established by the Board in waiving the provisions of section 19 or section 20 have not been met by the parties, the Board may cancel or reduce the daily quota of the registered producer whether or not the provisions of section 19 or section 20 have been previously waived by the Board.

Reduction of requirements re certain transfers

22 The Board may establish policies from time to time reducing its requirements under section 19

(a) with respect to the transfer of shares of a corporation

(i) from an individual to a member of his immediate family, or

(ii) listed on a public stock exchange unless 10% or more of the total outstanding shares of that class of the corporation are transferred, provided that this clause does not apply in respect of a series of transfers of shares within a period of eighteen (18) months by or to any one person that in the aggregate total 10% or more of the outstanding shares of that class of the corporation;

(b) with respect to a change in the beneficial or legal ownership of an interest in a partnership that is a registered producer where the legal or beneficial ownership of an interest in such partnership is transferred from an individual to a member of his immediate family; and

(c) with respect to a change in the membership of a Hutterite Colony where that Hutterite Colony is a registered producer or is the sole legal and the sole beneficial owner of all of the issued shares of a corporation that is a registered producer.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

PART 8

ASSOCIATION OF REGISTERED PRODUCERS

Deemed association

23 In this Part, a person is deemed to be associated with another person if

(a) one person is an entity of which the other person is an officer, director or substantial holder;

(b) one person is an entity of which the other person is a partner;

(c) one person is an entity that is controlled, directly or indirectly, by the other person;

(d) both persons are entities and one entity is controlled, directly or indirectly, by the same individual or entity that controls, directly or indirectly, the other entity;

(e) both persons are members of a voting trust where the trust controls or operates or has an interest in the other person; or

(f) both persons are associated within the meanings of clauses (a) to (e) with the same person.

Association of registered producers

24 In the event that a registered producer becomes associated with another registered producer, the Board may cancel or reduce the daily quotas of such registered producers unless the registered producers have requested in writing that the Board waive this provision and have each provided the Board, by Statutory Declaration and Certificate in a form satisfactory to the Board, with full particulars of all persons having a direct or indirect interest in such registered producers and the Board has in its discretion waived this provision either conditionally or unconditionally.

False or misleading information re association

25 In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration or Certificate is false or misleading, or that any conditions established by the Board in waiving the provisions of section 24 have not been met by the parties, the Board may cancel or reduce the daily quotas of the registered producers whether or not the provisions of section 24 have been previously waived by the Board.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

PART 9

RE-ALLOTMENT OF QUOTA

Complete farm sales

26(1) In the event a registered producer sells the land, buildings, and equipment used by him for producing and marketing milk (herein called the "dairy unit"), the Board may, on written application by the vendor and purchaser re-allot the daily quota used in association with the dairy unit to any purchaser.

26(2) The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein. All agreements between the registered producer and the purchaser (including a detailed listing of all assets included in such sale) shall be appended to such Statutory Declaration.

26(3) In the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration is false or misleading, the Board may reduce or cancel the daily quota in question, whether or not such daily quota was re-allotted.

26(4) The purchaser of the dairy unit will be required to give to the Board a written undertaking, in a form satisfactory to the Board, to maintain the legal and beneficial ownership of the dairy unit. In the event that the Board has reasonable grounds for believing that such undertaking has not been adhered to by the purchaser, the Board may cancel or reduce the daily quota in question.

Lease of a complete farm

27(1) In the event a registered producer leases the land, buildings and equipment used by him for producing and marketing milk (herein called the "dairy unit"), for a term not to exceed two (2) years in length, the Board may, on written application by the lessor and lessee, temporarily re-allot the daily quota used in association with the dairy unit to any lessee for the term of the lease.

27(2) The Lessor and Lessee will each be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein. All agreements between the registered producer and the lessee (including a detailed listing of all assets included in such lease) shall be appended to such Statutory Declaration.

27(3) In the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration is false or misleading, the Board may reduce or cancel the daily quota in question, whether or not such daily quota was temporarily re-allotted.

27(4) At the end of the lease term such daily quota will automatically be re-allotted by the Board back to the lessor. Any extension or renewal of a term of a lease will be treated as a new lease.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

Bankruptcy or receivership of a registered producer

28 Notwithstanding clause 11(f), where a person who is a registered producer becomes a bankrupt or applies for a receiving order or has such an order made against him or takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to the facilities of a registered producer, the Board may, upon written request of the trustee in bankruptcy or the receiver, temporarily re-allot to the trustee in bankruptcy or receiver the daily quota allotted to such producer upon terms and conditions as may be established by the Board at the time of such temporary re-allotment.

Re-allotment of daily quota on death, disability or retirement

29(1) In the event of the death, disability or retirement of an individual who is a registered producer, the Board may, on written request of such registered producer or of the personal representative of such deceased registered producer, re-allot the daily quota allotted to such registered producer to the heir or designated member of such registered producer's immediate family

(a) who becomes the owner of the milk production and marketing business carried on by the registered producer and of the land, buildings, and equipment used by the registered producer for producing and marketing milk; or

(b) who becomes the owner of the milk production and marketing business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection such business as the successor in possession to such registered producer.

29(2) The applicants will be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein.

29(3) In the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration or application is false or misleading, the Board may cancel or reduce the daily quota in question, whether or not such daily quota was re-allotted.

Re-allotment of daily quota on establishment of family partnership

30(1) Where an individual who is a registered producer enters into a partnership with a member of his immediate family, the Board may, on written request of such registered producer, re-allot the daily quota allotted to such registered producer to such partnership

(a) which becomes the owner of the milk production and marketing business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for producing and marketing milk; or

(b) which becomes the owner of the milk production and marketing business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection with such business as the successor in possession to such registered producer.

30(2) The applicants will be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

30(3) In the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration or application is false or misleading, the Board may cancel or reduce the daily quota in question, whether or not such daily quota was re-allotted.

Re-allotment of daily quota on establishment of a corporation

31(1) Where an individual who is a registered producer incorporates a corporation controlled by himself and/or members of his immediate family, or where partners who are registered producers incorporate a corporation owned by themselves in the same proportion as they owned interests in the partnership, or where a registered producer which is a corporation incorporates a wholly owned subsidiary, the Board may, on written request of such registered producer, re-allot the daily quota allotted to such registered producer to such corporation or subsidiary,

(a) which becomes the owner of the milk production and marketing business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for producing and marketing milk; or

(b) which becomes the owner of the milk production and marketing business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection with such business as the successor in possession to such registered producer.

31(2) The applicants will be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein.

31(3) In the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration or application is false or misleading, the Board may cancel or reduce the daily quota in question, whether or not such daily quota was re-allotted.

Partial and complete re-allotment of daily quota to related persons

32(1) The Board may, upon application of a registered producer in writing (herein called "the applicant") re-allot all or a portion of the daily quota allotted to such applicant to another person who is not a registered producer (herein called "the recipient") in the following circumstances:

(a) with respect to an individual applicant, where the recipient is a member of such applicant's immediate family;

(b) with respect to a partnership applicant, where all partners in the partnership are members of the same immediate family and where the recipient is a member of that immediate family;

(c) with respect to an applicant which is a corporation, where all legal and beneficial shareholders in such applicant are members of the same immediate family and where the recipient is a member of such immediate family;

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

(d) with respect to a Hutterite Colony applicant (or a corporation which is a wholly owned subsidiary of a Hutterite Colony) where the recipient is a wholly owned subsidiary of such applicant, or a daughter-Hutterite Colony, or a corporation wholly owned by a daughter-Hutterite Colony. For the purpose of this provision a daughter-Hutterite Colony shall mean a Hutterite Colony recently created as a result of the division of the assets and the membership of a Hutterite Colony.

32(2) Provided that no such re-allotment will be made until a recipient has established a separate facility owned or solely operated by him in which to keep dairy cows.

32(3) The applicants and recipients will each be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein and in the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration or an application is false or misleading, the Board may cancel or reduce the daily quota in question, whether or not such daily quota was re-allotted.

32(4) The Board shall not approve the re-allotment of a daily quota pursuant to the above provisions if such re-allotment would result in the balance of a daily quota retained by the applicant being less than 1 kilogram of butterfat per day unless all of the daily quota allotted to such applicant is re-allotted pursuant to the above provisions.

Re-allotment of daily quota on merger of registered producers

33(1) In the event two or more registered producers (the "applicants") wish to merge their dairy operations and carry on milk production and marketing activities at the dairy farm of one of them, the Board may, upon application of such applicants re-allot the daily quota allotted to such applicants to a corporation or partnership formed by the applicants to carry on milk production and marketing activities at such dairy farm on a merged basis.

33(2) The applicants and the corporation or partnership formed by them (the "recipient") will each be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein, and in the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration or any application is false or misleading, the Board may cancel or reduce the daily quotas in question, whether or not such daily quotas were re-allotted.

PART 10

MONTHLY QUOTA EXCHANGE SYSTEM

Re-allotment under system

34 Daily quotas may be cancelled and re-allotted by the Board as a result of and in accordance with the procedures set out in Schedule "A".

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

Acceptance of applications discretionary
35 The Designated Staff referred to in Schedule "A" may refuse to accept or may postpone the processing of any application to participate in the Monthly Quota Exchange System for such reasons or on such terms as they deem appropriate.

PART 11

FACILITIES

Quota to be allotted for a facility
36 In allotting a daily quota to a registered producer, the Board may specify the location of the facility in which the producer's dairy cows, or any portion of such dairy cows, must be milked.

Standards for equipping and operating facilities
37 It is a condition of the allotment of a daily quota to any registered producer that the facilities of that producer shall at all times meet all of the requirements for buildings, equipment, operation and herd health for dairy farms as set out in *The Dairy Act* and regulations made under that Act.

Relocation of facilities
38(1) A registered producer may make application to relocate his milk production and marketing activities to a new location. In conjunction with any such application such registered producer shall provide to the Board such information as the Board may require and such consents which the Board may request from any creditor who has been given security to the facilities used by the registered producer.

38(2) In dealing with any application for relocation of facilities to a new location the applicant must enter into satisfactory arrangements with the Board or otherwise agree to pay to the Board the transportation charges to be applied to his deliveries basis minimum distance, minimum volume, minimum daily and minimum monthly pick-up charges established by the Board from time to time.

Emergency relocation
39 The Board may allow a registered producer to temporarily relocate his dairy cows to another location in the event of an emergency even if the registered producer is not the registered owner or the sole operator of the facility on that new location.

Examination of facilities
40 It is a condition of the allotment of daily quota to a registered producer that such registered producer allow any duly authorized representative of the Board to examine his facility from time to time. Prior to such examination, the Board will give reasonable notice to such registered producer of its intention to conduct such examination.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

PART 12

REPEAL AND COMING INTO FORCE

Repeal

41 The *Milk Marketing Quota Order*, Manitoba Regulation 175/91, is repealed.

Coming into force

42 This order comes into force on the date it is registered.

February 17, 1999

MANITOBA MILK PRODUCERS:

William Swan
Chairman

W.J.S. Wade
Secretary

APPROVED

April 8, 1999

THE MANITOBA NATURAL PRODUCTS MARKETING COUNCIL:

Howard Motheral
Chairperson

G.H. MacKenzie
Secretary

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Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
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À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

SCHEDULE 'A' TO THE MILK MARKETING QUOTA ORDER

MONTHLY QUOTA EXCHANGE SYSTEM

(PART 10)

Quotas belong to the Board

1 Notwithstanding the terms and provisions in the Schedule or of any forms or materials used in connection with this Schedule, as stated in section 12 of the Order, daily 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 13 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.

Participation by licensed cream producers

3 A licensed cream producer may participate in the Monthly Quota Exchange System and as such may submit a Bid or Offer.

For the purpose of dealing with a Bid submitted by a licensed cream producer, such Bid shall be submitted in the form of a Bid to be allotted daily quota. If the Bid is successful, the allocation to the licensed cream producer as a result of such Bid shall be the amount of the successful Bid, multiplied by the number of days in that dairy year, and such allocation shall be expressed in terms of unused market sharing quota for that dairy year.

For the purpose of dealing with an offer submitted by a licensed cream producer, such offer shall be submitted in the form of an Offer to cancel the deemed daily quota allotted to that licensed cream producer. If the Offer is successful, the allocation of that licensed cream producer to be cancelled shall be the amount of the successful Offer, multiplied by the number of days in that dairy year, and shall be expressed in terms of market sharing quota for a dairy year. The cancellation shall first be applied to the unused market sharing quota allocated to that licensed cream producer and secondly to the balance of the market sharing quota allocated to that licensed cream producer.

An Offer which would result in the remaining market sharing quota allocated to that offeror being reduced to a level below 300 kilograms of butterfat per dairy year shall not be accepted by the Designated Staff. Any offeror allotted a market sharing quota of 300 kilograms of butterfat per dairy year or less must offer to cancel the entire market sharing quota allotted to him to be eligible to be an offeror on the Monthly Quota Exchange System.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

Definitions

4 In this Schedule,

"Bid" means an application to be allotted 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 a registered producer or an eligible person who in the opinion of the Designated Staff has submitted a bid in an acceptable form, and has provided satisfactory evidence of financial responsibility with respect to such bid;

"deemed daily quota of a licensed cream producer" means a market sharing quota allocated to that licensed cream producer divided by the number of days in that dairy year;

"Designated Staff" means those employees and other individuals designated by the Board from time to time to operate the Monthly Quota Exchange System;

"eligible person" means a person who is not a registered producer and who has met the criteria set out in section 3 of this Order;

"Exchange Clearing Price" (ECP) of a Monthly Quota Exchange program means the least amount, expressed in dollars and cents per kilogram of 1/100 of a kilogram of butterfat of daily quota, at which the cumulative volume (in an ascending order of amounts) of kilogram 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 kilogram or 1/100 of a kilogram of butterfat of daily quota requested for allotment;

"Monthly Quota Exchange Program" 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 Program 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 by the Board;

"quota" means a daily quota or a deemed daily quota of a licensed cream producer;

"Reallocation Day" means the day on which a Monthly Quota Exchange Program is operated;

"registered producer" for the purposes of this Schedule except sections 11, 12 and 13 includes a person who is a licensed cream producer under the *Cream Marketing Plan Regulation*;

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

"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 Program in the manner contemplated by subsection 8(13) is credited; and to which any monies received for daily quota added to balance a Monthly Quota Exchange Program in the manner contemplated by subsection 8(12) are credited;

"unused market sharing quota" means that portion of the market sharing quota allotted to a licensed cream producer for a dairy year which has not been marketed during that dairy year.

Monthly Quota Exchange System administration

5 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 Program, reporting the results to the Board.

The Manitoba Council may appoint members of its staff to act as observers and auditors of each Monthly Quota Exchange Program. Except as provided in subsection 8(14), all particulars with respect to an individual Offer or to an individual Bid shall be kept confidentially Designated Staff and Manitoba Council observers and auditors, and shall not be disclosed to the members of Manitoba Milk Producers, Manitoba Milk Producers Staff who are not Designated Staff, or any other person whatsoever.

The Board may prescribe forms to be used in the operation of a Monthly Quota Exchange Program from time to time. The Designated Staff may accept a Bid or an Offer, or an amendment or a withdrawal of a Bid or an Offer which is not in a prescribed form, as long as same is in writing and in the opinion of the Designated Staff substantially complies with any such prescribed form.

Program fund

6 All program fees paid by successful bidders shall be credited to the Program Fund pursuant to section 10. The Program Fund shall be used to make program payments to successful offerors.

Program fees and program payments

7 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 per day (daily quota) basis.

Each program fee paid by a successful bidder must be paid on each kilogram or 1/100 of a kilogram of butterfat per day allocated.

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

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

Monthly Quota Exchange Program procedures

8(1) Designated Staff may operate a Monthly Quota Exchange Program 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 Program.

8(2) Designated Staff may cancel, or may postpone for up to 7 days at any time, the operation of any Monthly Quota Exchange Program for any reason they deem advisable.

8(3) A person wishing to participate in a Monthly Quota Exchange Program must submit either an Offer or a Bid in writing, either by letter or telefax, in a form satisfactory to the Designated Staff to the Board's head office which must be received prior to 12:00 o'clock midnight of the last working day before the first of the calendar month.

8(4) Each Offer on a particular Monthly Quota Exchange Program must include the following information:

(a) the amount of daily quota expressed in kilograms or 1/100 of kilograms of butterfat per day offered for cancellation;

(b) the program payment, to the nearest cent per kilogram of butterfat per day, which the offeror is willing to accept upon cancellation of the quota offered for cancellation;

(c) the date of the Monthly Quota Exchange Program (the month) to which the offer applies;

(d) the name, address and signature of the offeror; and

(e) the producer registration number of the offeror.

8(5) Each Bid on a particular Monthly Quota Exchange Program must include the following information:

(a) the amount of daily quota in kilograms or 1/100 of kilograms of butterfat per day requested for allotment;

(b) the program fee to the nearest cent per kilogram of butterfat per day which the bidder is willing to pay upon allotment of the daily quota requested for allotment;

(c) the date of the Monthly Quota Exchange Program (the month) to which the Bid applies; and

(d) the producer registration number of the bidder where applicable.

Repealed version
Current from 10 Sept. 2026 at 7:53 pm CDT to 1 Mar. 2006
Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

8(6) In the case of an omission or defect in a Bid or in an Offer, the Designated Staff shall not make any changes or additions to such Bid or Offer, and the Bid or Offer will be rejected. A member of the Designated Staff shall attempt to contact the bidder or the offeror and to advise him of such rejection. The fact that a Bid or Offer is rejected shall not preclude the bidder or offeror from submitting a subsequent Bid or Offer.

8(7) An Offer or a Bid may be amended or withdrawn, provided such withdrawal or amendment is in writing and in the form of a letter or telegram or a telefax sent by the bidder or the offeror, and is received by the Designated Staff at the head office of the Board prior to 12:00 o'clock midnight of the last working day before the first day of the month in which the Monthly Quota Exchange Program 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.

8(8) Any Offer or Bid which is received after any deadline for submission for the program will be rejected by the Designated Staff.

8(9) As provided in section 35 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 Manitoba Milk Producers.

8(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 Program. The Exchange Clearing Price (ECP) as determined by clearing a Monthly Quota Exchange Program shall be the least amount at which the cumulative volumes most closely match and shall be the amount of the program fee payable to Manitoba Milk Producers by a successful bidder and the amount of the program payment payable by Manitoba Milk Producers to a successful offeror under that Monthly Quota Exchange Program.

8(11) Subject to subsection 8(12) and to the acceptance of the results by the Board under subsection 8(14),

(a) if a bidder has submitted a Bid at an amount equal to, or higher than the Exchange Clearing Price on a Program then that Bid shall be deemed to successful and the bidder shall pay to Manitoba Milk Producers 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 Program;

Repealed version
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Version abrogée
À jour du 10 sept. 2026 à 19 h 53 au 1er mars 2006

(b) if an offeror has submitted an Offer at an amount equal to, or lower than, the Exchange Clearing Price on a Program, then that offer shall be deemed to be successful and the offeror shall be entitled to receive from the Manitoba Milk Producers 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 Program.

The Designated Staff shall contact each successful bidder and advise the bidder of the amount to be paid to Manitoba Milk Producers on or before the last working day of the month of the Monthly Quota Exchange Program.

8(12) Upon the clearing of a Monthly Quota Exchange Program, 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, the Designated Staff shall add to the Monthly Quota Exchange Program 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.

8(13) Upon the clearing of a Monthly Quota Exchange Program, 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 Bids, the Designated Staff may bid, 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.

8(14) Following the conduct of a Monthly Quota Exchange Program, the Designated Staff shall report to Manitoba Milk Producers the number of Bids received, the number of Offers received, the number of kilograms of butterfat per day 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 Program, Manitoba Milk Producers may pass a resolution to accept such results.

8(15) Following the acceptance of the result of a Monthly Quota Exchange Program, Manitoba Milk Producers 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.

8(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 Program was conducted.

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8(17) Following the Board's consideration of the results of a Monthly Quota Exchange Program, each participant in the Monthly Quota Exchange Program will be advised in writing by the Designated Staff whether his Offer or Bid was successful.

8(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 Program shall entitle the Designated Staff to cancel the Bid whereupon that daily quota shall be credited to the Reserve. The Manitoba Milk Producers may offer to cancel any daily quota in the Reserve on a future Monthly Quota Exchange Program. 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 Program.

Limits on Bids and Offers

9(1) An Offer which would result in the remaining daily quota allocated to that offeror being reduced to a level below 1 kilogram of butterfat per day will be rejected by the Designated Staff. Any offeror allotted a daily quota of 1 kilogram of butterfat per day or less must offer to cancel all such daily quota to be eligible to be an offeror on a Monthly Quota Exchange Program. No Bid of less than one-tenth of a kilogram of butterfat per day will be processed.

9(2) More than one Bid and more than one Offer may be made on the same Monthly Quota Exchange Program by the same person.

A bidder shall not be allowed to be an offeror on the same Monthly Quota Exchange Program and neither the Bid nor the Offer will be processed.

Program fund

10(1) All program fees paid to Manitoba Milk Producers by successful bidders will be allocated to the Program Fund.

10(2) All program payments made by Manitoba Milk Producers to successful offerors will be paid from the Program Fund.

Information

11 Manitoba Milk Producers will forward to each registered producer in a form approved by the Manitoba Council, within 15 days following the acceptance of the results of a Monthly Quota Exchange Program by Manitoba Milk Producers, the results of such Program.

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SCHEDULE "B"

CREAM CONVERSION SYSTEM

Definitions

1 In this Schedule

"conversion date" for an approved person means the first day of a month designated by the Board for that person;

"Cream Plan" means the *Cream Marketing Plan Regulation*, being Manitoba Regulation 97/96;

"eligible applicant" means a licensed cream producer who

(a) has met the criteria set out in clause 3(a) and 3(b) of the Order,

(b) has been allotted a market sharing quota equal to at least 365 kilograms of butterfat per dairy year,

(c) is a resident of Manitoba, and

(d) will have had an interview with a representative of Manitoba Milk Producers involved in the administration of this Schedule prior to the conversion date;

"licensed cream producer" means an eligible applicant whose application under section 3 of this Schedule is approved by the Board.

Application to be made

2 An eligible applicant may make application for allotment of a quota under this Schedule as of a proposed conversion date. Every application shall be in writing in a form prescribed by the Board and must be signed by the applicant and received at the head office of Manitoba Milk Producers at 36 Scurfield Boulevard, Winnipeg, Manitoba R3T 3N5 at least 60 days prior to the proposed conversion date.

Basis of application

3 Each application under this Schedule shall be

(a) for the allotment of a daily quota of a minimum of 1 kilogram of butterfat per day (1 kilogram for each 363.64 kilograms of market sharing quota allotted to that applicant under the Cream Plan); and

(b) deemed to be a request by the applicant under the Cream Plan that, upon acceptance of such application, the Board cancel the market sharing quota allotted to that applicant under the Cream Plan.

Approval of applicants

4 Manitoba Milk Producers will, from time to time, consider applications received under section 3 and, upon approval of any such application, will designate the conversion date for such applicant.

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Effect of approval

5 On the conversion date, the market sharing quota allotted to each approved person under the Cream Plan shall be cancelled, and each such approved person shall be allotted a daily quota of 1 kilogram of butterfat per day for each 363.64 kilograms of butterfat per dairy year comprising the market sharing quota previously allotted to that approved person which has been so cancelled.

Cancellation for failure to market

6 Any daily quota allotted pursuant to this Schedule may be cancelled by the Board if the approved person does not begin marketing milk through Manitoba Milk Producers on the conversion date.

Cancellation for continuing to market cream

7 In the event an approved person markets cream after the conversion date, the daily quota allotted to that person pursuant to this Schedule may be cancelled by the Board.

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