

Total Production Quota Regulations

made under clause 14(1)(e) of the
Dairy Industry Act
S.N.S. 2000, c. 24

N.S. Reg. 255/2009 (July 21, 2009, effective August 1, 2009)
as amended up to N.S. Reg. 95/2017 (May 15, 2017, effective June 1, 2017)

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Citation

1 These regulations may be cited as the Total Production Quota Regulations.

Interpretation

2 In these regulations,

“Act” means the Dairy Industry Act;

“assisted new producer” means a new producer who is receiving assistance under the Board policy;
Definition of “assisted new producer” amended: N.S. Reg. 132/2012.

Definition of “base TPQ” repealed: N.S. Reg. 76/2016.

“Board policy” means a policy of the Board established under Section 5;
Definition of “board policy” added: N.S. Reg. 132/2012.

“dairy farm” includes all of the following:

- (i) land and buildings necessary for a producer’s dairy operation,
- (ii) a producer’s dairy and farm equipment,
- (iii) all of a producer’s cows that have calved at least once and are required to support the producer’s Total Production Quota as determined by the Board;

“immediate family member”, in relation to a producer, means the producer’s spouse, child, grandchild, son-in-law, daughter-in-law, niece, nephew, grandson-in-law, granddaughter-in-law, or another person who stands in a relationship to a producer as determined by the Board;

“market clearing price” means the price at which TPQ is deemed bought or sold on the TPQ exchange, as determined under Section 26;

“new producer” means a person who

- (i) is not selling milk to the Board,
 - (ii) is licensed by the Board to produce milk under the Act,
 - (iii) is located within a reasonable area for bulk milk pick-up, as determined by the Board,
- and
Subclause (iv) of definition of “new producer” amended: N.S. Reg. 132/2012; repealed: N.S. Reg. 76/2016.

- (v) is none of the following:
 - (A) a director, officer, partner, shareholder or spouse of a producer,
 - (B) a corporation or partnership of which a producer, or a producer’s spouse, is a director, officer, partner or shareholder,
 - (C) a corporation or partnership that has any directors, officers, partners or shareholders in common with a producer,
 - (D) in the opinion of the Board, otherwise related to a producer;

Subclause (v) of definition of “new producer” amended: N.S. Reg. 79/2014, N.S. Reg. 76/2016.

Definition of “non-saleable adjustment quota” repealed: N.S. Reg. 76/2016.

“pay period” means the period customarily followed by the Board for paying transporters and producers;

“Provincial total production quota” or “Provincial TPQ” means the total annual butterfat required to meet the Province’s annual butterfat or equivalent milk volume requirements and supply Provincial demand for fluid milk, as allotted under the Dairy Products Marketing Regulations made under the Canadian Dairy Commission Act (Canada);

“Quota Committee” means the committee established under Section 13;

“total production quota” or “TPQ” means a quota allotted by the Board in accordance with these regulations to represent a portion of an individual producer’s share of the Provincial TPQ expressed in kilograms of butterfat;

Definition of “total quota” repealed: N.S. Reg. 76/2016.

“TPQ exchange” means the exchange for the buying and selling of TPQ administered by the Board in accordance with these regulations and the Interprovincial Milk Quota Regulations made under the Act; and

“year” means the dairy year as determined by the Board.
Section 2 amended: N.S. Reg. 132/2012.

Application of regulations

3 These regulations apply only to producers of cows’ milk.

Producer quota allotment and registration

4 (1) TPQ may be allotted only to a producer who meets all of the following criteria:

(a) the producer is eligible for registration with the Canadian Dairy Commission;

(b) the producer meets the requirements of the Milk Producers Licensing Regulations made under the Act;

(c) except for a new producer, the producer is selling milk to the Board in accordance with these regulations.

Subsection 4(1) amended: N.S. Reg. 76/2016.

(2) Each producer who meets the criteria in subsection (1) must be assigned a registration number by the Board.

(3) There must be only 1 registration number for 1 dairy farm, and 1 producer must hold only 1 registration number regardless of whether the producer operates 1 or more dairy farms.

(4) The Board must allot only one TPQ for each producer.

Subsection 4(4) amended: N.S. Reg. 76/2016.

Assistance to new producers

5 The Board may establish a policy to assist some or all new producers, and the policy may authorize an allotment by the Board of up to 16 kg of butterfat per day of TPQ each year to a new producer selected in accordance with the policy, with the assisted new producer returning any such allotment of TPQ to the Board over a period of time determined by the Board.

Section 5 amended: N.S. Reg. 373/2015.

Location of dairy farms

6 (1) All dairy farms established after these regulations come into force must be located within a reasonable area for bulk milk pick-up, as determined by the Board.

(2) In determining whether a location is within a reasonable area for bulk milk pick-up, the Board must consider all of the following:

(a) the incremental milk transportation costs;

(b) any logistical constraints such as roads or bridges that would be difficult or hazardous for transporters to travel and whether adding the location would extend the time required for a milk pick-up route beyond the time permitted for a driver to operate a truck;

(c) any additional factors that the Board considers relevant.

(3) If, after consideration of the factors in subsection (2), the Board determines that a location may not be within a reasonable area for bulk milk pick-up, the Board must refer the issue to the Advisory Committee for Transportation established under the Advisory Committee Regulations made under the Act for advice and a recommendation.

(4) The Board will not purchase milk from a producer whose dairy farm is not within a reasonable area.

Duty to comply with regulations

7 (1) Except as provided for in these regulations, TPQ must not be sold, assigned, leased or transferred. Subsection 7(1) amended: N.S. Reg. 76/2016.

(2) If a producer contravenes these regulations, the Board may revoke or suspend any or all TPQ registered to the producer on any terms and conditions that the Board considers appropriate in the circumstances.

Subsection 7(2) amended: N.S. Reg. 76/2016.

Prohibited uses of milk shipment

8 (1) A producer must not ship milk to a processor on the basis of either of the following:

(a) TPQ allotment registered in the name of another producer;

Clause 8(1)(a) amended: N.S. Reg. 76/2016.

(b) the producer's TPQ allotment, if the milk is from cows other than those located on the producer's dairy farm.

Clause 8(1)(b) amended: N.S. Reg. 76/2016.

(2) A producer must not ship milk to another producer for the purpose of shipment or reshipment to a processor.

Board order to dispose of TPQ

9 The Board may order a producer to dispose of their TPQ, in either of the following circumstances:

(a) the producer's production is too low to provide satisfactory cooling, sampling or measurement;

(b) the producer has shipped at an average daily rate of less than 110 L per day for 2 or more consecutive pay periods.

Section 9 amended: N.S. Reg. 76/2016.

Assignment of TPQ

10 (1) In this Section, "recognized lending institution" means any of the following:

(a) a bank listed in Schedule I or Schedule II of the Bank Act (Canada);

(b) a credit union to which the Credit Union Act applies;

- (c) the Nova Scotia Farm Loan Board;
- (d) Farm Credit Canada;
- (e) a lender approved by the Board.

(2) On receiving a completed assignment of TPQ in a form approved by the Board, made between a recognized lending institution and a producer for the purpose of a secured transaction, the Board may consent to the assignment on any terms and conditions that the Board considers appropriate.

(3) The consent of the Board to an assignment of TPQ does not in any circumstances, nor is it deemed to, warrant the validity of the assignment, and the Board is not liable for any loss or damage that may be suffered by the lending institution as a result of its reliance on the assignment.

Subsection 10(4) repealed: N.S. Reg. 112/2010.

Calculating producer payment and quota utilization

11 To calculate producer payment and quota utilization, each producer's monthly TPQ is calculated by multiplying the producer's daily TPQ by the number of days of milk production shipped during that month.
Section 11 amended: N.S. Reg. 76/2016.

Adjusting Provincial total production quota

12 (1) The Board may make an interim adjustment to Provincial TPQ to ensure that an adequate supply of milk is available to meet market requirements.

(2) After consulting with the Quota Committee, the Board may allot any adjustment to the Provincial TPQ to producers based on the following conditions:

(a) an increase in Provincial TPQ will be allotted to a producer's TPQ as a percentage of the producer's TPQ as of the date of the adjustment;
Clause 12(2)(a) replaced: N.S. Reg. 373/2015.

Clause 12(2)(b) repealed: N.S. Reg. 373/2015.

Clause 12(2)(c) repealed: N.S. Reg. 76/2016.

(d) a decrease in Provincial TPQ will be deducted from a producer's TPQ as a percentage of the producer's TPQ as of the date of the adjustment.
Clause 12(2)(d) replaced: N.S. Reg. 76/2016.

Quota Committee

13 (1) A Provincial quota committee must be established to administer Sections 15, 15A, 29 and 30 on behalf of the Board, and to make recommendations to the Board on the remainder of these regulations.
Subsection 13(1) amended: N.S. Reg. 79/2014.

(2) The Quota Committee is composed of the Executive Committee of the Board.

(3) Each member of the Quota Committee has one vote.

(4) The Quota Committee must appoint one of its members as Chair.

TPQ flexibility for individual producers

14 (1) In this Section, "cumulative over-production" refers to the amount by which a producer's cumulative production exceeds their cumulative TPQ and "cumulative under-production" refers to the amount by which a producer's cumulative production is less than their cumulative TPQ.
Subsection 14(1) amended: N.S. Reg. 76/2016.

(2) The limit of a producer's cumulative over-production is 10 times the producer's daily TPQ.
Subsection 14(2) replaced: N.S. Reg. 76/2016.

Subsection 14(3) repealed: N.S. Reg. 76/2016.

Subsection 14(4) repealed: N.S. Reg. 76/2016.

(5) The portion of a producer's cumulative over-production that exceeds the over-production limit in subsection (2) is classed as over-quota production.
Subsection 14(5) amended: N.S. Reg. 76/2016.

(6) The limit of a producer's cumulative under-production is 30 times the producer's daily TPQ.
Subsection 14(6) replaced: N.S. Reg. 76/2016.

(7) Under-production up to the limit in subsection (6) may be carried forward indefinitely.

(8) Under-production in excess of the limit in subsection (6) must not be carried forward.

(9) When a producer sells their entire TPQ on the TPQ exchange,

(a) all cumulative over-production at the time of sale is classed as over-quota production; and

(b) the selling producer must reimburse the Board for all over-quota production described in clause (a), based on the difference between the most recent component prices and the over-quota component prices.

Transfers of TPQ

15 (1) A transfer of TPQ is not effective until authorized by the Board.
Subsection 15(1) amended: N.S. Reg. 76/2016.

(2) A transfer of TPQ must take place on the TPQ exchange, except in any of the following circumstances:

(a) a transfer of TPQ with a dairy farm to a new producer or to an immediate family member;

(b) a transfer of TPQ from a parent to a child who is a new producer at the time of the transfer;
Clause 15(2)(b) replaced: N.S. Reg. 79/2014.

(c) a transfer by a producer of all of their TPQ to a corporation

(i) if the transferring producer is an individual and the only shareholder in the corporation is the transferring producer; or

(ii) if the transferring producer is a partnership and the only shareholders in the corporation are the partners of the transferring producer;

(d) a transfer by a producer of all of their TPQ to a partnership in which the transferring producer is a partner, if the partnership does not hold any TPQ at the time of the transfer, and holds only the TPQ of the transferring producer immediately after the transfer;

(e) a transfer of TPQ by a corporation to 1 or more of its shareholders on the sale of their shares in the corporation, or on the wind-up or dissolution of the corporation;

(f) a transfer of TPQ by a partnership to 1 or more of its partners on the sale of their interest in the partnership, or on the wind-up or dissolution of the partnership.

Subsection 15(3) repealed: N.S. Reg. 76/2016.

Subsection 15(4) repealed: N.S. Reg. 76/2016.

Subsection 15(5) repealed: N.S. Reg. 76/2016.

(6) A new producer or immediate family member who purchases or acquires a dairy farm must acquire the TPQ allotted to the previous owner.

(7) Except as otherwise approved by the Board, all transfers of TPQ must occur at the beginning of a pay period.

Subsection 15(7) amended: N.S. Reg. 76/2016.

Section 15 heading amended: N.S. Reg. 76/2016.

Corporate amalgamations not permitted

15A Two or more producers that are corporations are not permitted to amalgamate to continue as one corporation.

Section 15A added: N.S. Reg. 79/2014.

Minimum TPQ

16 (1) A producer must hold TPQ of at least 10 kg of butterfat per day.

Subsection 16(1) amended: N.S. Reg. 76/2016.

(2) If a producer's TPQ falls below 10 kg of butterfat per day, the producer must acquire enough TPQ within 1 month to hold TPQ of at least 10 kg of butterfat per day.

Subsection 16(2) amended: N.S. Reg. 76/2016.

(3) If a producer fails to comply with subsection (2), the Board must not purchase the producer's milk, and the producer must either acquire TPQ until they have TPQ of at least 10 kg of butterfat per day, or sell their TPQ in accordance with Section 17.

Subsection 16(3) amended: N.S. Reg. 76/2016.

(4) This Section does not apply to any of the following:

(a) producers who held TPQ of less than 10 kg of butterfat on February 1, 2016;

Clause 16(4)(a) amended: N.S. Reg. 112/2010, N.S. Reg. 76/2016.

(b) assisted new producers;

Clause 16(4)(b) amended: N.S. Reg. 132/2012.

(c) producers who were assisted new producers in the previous 12 months.

Clause 16(4)(c) amended: N.S. Reg. 132/2012.

TPQ of producer who ceases producing

17 (1) A producer who ceases production must sell their TPQ before the 5th TPQ exchange after the date of the producer's last milk shipment, except that if the 4th TPQ exchange after the date of the last milk shipment is pro-rated for sellers, the producer must sell all their remaining TPQ in the next TPQ exchange that is not pro-rated for sellers.

(2) If a producer fails to comply with the time limits set out in subsection (1), their TPQ must be cancelled by the Board.

Subsection 17(2) amended: N.S. Reg. 76/2016.

Section 17 heading amended: N.S. Reg. 76/2016.

2-step transfers

18 (1) If authorized by the Board, a producer may complete a transfer to a partnership or corporation under subsection 15(2) in 2 steps, with part of the TPQ being transferred in step 1 and the balance being transferred in step 2.

Subsection 18(1) amended: N.S. Reg. 76/2016.

- (2) During the period between step 1 and step 2 of a 2-step transfer,
 - (a) the producer and the partnership or corporation are deemed to be 1 producer; and
 - (b) there is deemed to be 1 dairy farm between the producer and the partnership or corporation.
- (3) A producer must undertake a 2-step transfer by
 - (a) submitting a written request for approval to the Board;
 - (b) completing the 2-step transfer of the dairy farm within no more than 5 business days; and
 - (c) completing the 2 steps within the same calendar month.

Operation of TPQ exchange

19 (1) A producer, including an assisted new producer but excluding a new producer who is not assisted, or an authorized designate of a producer, may offer to sell or buy TPQ on a TPQ exchange.

Subsection 19(1) amended: N.S. Reg. 132/2012.

- (2) A TPQ exchange may operate in any month of the year.
- (3) TPQ is transacted on a TPQ exchange in units of kilograms of butterfat per day.

Offers to buy and sell

20 (1) A producer wishing to participate on a TPQ exchange must submit either 1 offer to buy TPQ or 1 offer to sell TPQ, and the offer must be in a form approved by the Board and include all of the following information:

- (a) whether the offer is to buy or sell TPQ;
- (b) the amount of TPQ the offer is for, expressed as a number of kilograms or, for a portion of a kilogram, expressed in hundredths of a kilogram;
- (c) the offer price per kilogram rounded to the nearest dollar value;
- (d) the name of the producer, their signature, if applicable, and their producer registration number;
- (e) the month of the TPQ exchange to which the offer applies.

Subsection 20(1) amended: N.S. Reg. 132/2012.

(2) Each offer to buy TPQ must be accompanied by service fee of \$15.00 plus any applicable taxes. Subsection 20(2) replaced: N.S. Reg. 132/2012; amended: N.S. Reg. 76/2016.

(2A) The service fee required by subsection (2) is refundable to the producer if either of the following occurs:

- (a) the exchange for which the offer was submitted is cancelled;
- (b) the producer's offer to buy TPQ is at a price equal to or higher than the market clearing price, but does not result in the producer purchasing any quota on that exchange.

Subsection 20(2A) added: N.S. Reg. 76/2016.

(3) Each offer to sell TPQ must be accompanied by a service fee of \$100.00 plus any applicable taxes.
Subsection 20(3) amended: N.S. Reg. 132/2012, N.S. Reg. 76/2016; replaced: N.S. Reg. 95/2017.

(4) An offer to buy or sell TPQ must be received by the Board by the last business day before the 14th day of the month of the TPQ exchange.

Subsection 20(4) amended: N.S. Reg. 132/2012.

(5) A producer must not offer to sell and buy TPQ on the same TPQ exchange.

Subsection 20(5) amended: N.S. Reg. 132/2012.

(6) Subsection (5) does not apply to an assignee under an assignment of TPQ, to which the Board has consented, who places an offer to sell assigned TPQ on the TPQ exchange.

(7) The Board must reject the offer of any producer to buy an amount of TPQ on the TPQ exchange greater than 10% of the producer's TPQ at the time the offer is submitted.

Subsection 20(7) amended: N.S. Reg. 76/2016.

(8) Subsection (7) does not apply to an assisted new producer for the period of time prescribed in the Board policy.

Subsection 20(8) amended: N.S. Reg. 132/2012.

Market clearing price cap

21 The Board must reject any offer to buy or offer to sell TPQ on a TPQ exchange at a price greater than \$24 000 per kilogram of TPQ.

Section 21 amended: N.S. Reg. 132/2012; N.S. Reg. 373/2015.

Section 22 repealed: N.S. Reg. 132/2012.

Withdrawal or amendment of offer

23 A producer may withdraw or amend an offer by submitting the amendment in a form approved by the Board by no later than the deadline specified in subsection 20(4).

TPQ exchange transactions

24 (1) In this Section, "banking day" means a day between Monday and Friday, inclusive, and on which at least half of the banks in the Province are open for business.

Subsection 24(1) replaced: N.S. Reg. 132/2012.

(1A) On or before the 3rd-last banking day of the month of a TPQ exchange, each producer with a successful buy offer in that TPQ exchange must pay the Board in full for the quantity of TPQ that the producer bought.

Subsection 24(1A) added: N.S. Reg. 132/2012.

(2) Before the 10th day of the month immediately after the month of a TPQ exchange, the Board must pay producers any money due to them as a result of selling TPQ on that TPQ exchange.

(3) If a producer does not pay as required by subsection (1A), or if a cheque that the producer submits to the Board is dishonoured by the producer's bank,

(a) the TPQ bought by the producer returns to the Board and may be sold on a later TPQ exchange; and

(b) except as provided in subsection (6), all of the following apply to the producer:

(i) the producer is liable for all costs incurred by the Board resulting from the non-payment or dishonoured cheque, and the costs must be paid before any of the producer's future offers to buy or sell TPQ on the exchange are accepted,

(ii) the producer is not eligible to buy TPQ on the exchange for a period of 12 months following full reimbursement of the costs referred to in subsection [subclause] (i),

(iii) for a period of 5 years from the date the producer becomes eligible to buy TPQ on the exchange again under subclause (ii), the producer must pay for TPQ only with a bank draft, direct deposit or wire transfer.

Subsection 24(3) added: N.S. Reg. 132/2012.

(4) No later than 30 days after the date a producer's payment is due under subsection (1A), the producer may submit a request in writing to the board of directors of the Board requesting that subclauses (3)(b)(ii) and (iii) not apply to the producer.

Subsection 24(4) added: N.S. Reg. 132/2012.

(5) On receipt of a request from a producer under subsection (4), the board of directors of the Board must give the producer a reasonable opportunity to make submissions either in writing or in person to the board of directors of the Board.

Subsection 24(5) added: N.S. Reg. 132/2012.

(6) If, after giving the producer a reasonable opportunity to make submissions, the board of directors of the Board is satisfied that the non-payment or dishonoured cheque was the result of circumstances beyond the control of the producer, and not the result of any fault or negligence by the producer, subclauses (3)(b)(ii) and (iii) do not apply to the producer.

Subsection 24(6) added: N.S. Reg. 132/2012.

Canceling TPQ exchange

25 (1) The Board may cancel a TPQ exchange for a particular pay period if

(a) the total amount of TPQ offered for sale on the exchange is 2.0 kg or less; or

(b) the Board considers it advisable or necessary to do so.

Subsection 25(1) replaced: N.S. Reg. 76/2016.

(2) A producer who submits an offer for a TPQ exchange that is cancelled may resubmit their original offer or an amended offer for a later exchange.

(3) If the Board cancels a TPQ exchange under clause (1)(a), the Board may buy all of the TPQ offered for sale on the exchange at a price equal to the market clearing price on the most recent TPQ exchange.

Subsection 25(3) added: N.S. Reg. 76/2016.

(4) The Board may offer to sell any TPQ purchased under subsection (3) on a later exchange at a price determined by the Board, and any such offer must be dealt with in the same manner as if it were an offer to sell TPQ by a producer for the purposes of Section 26, except that Section 20 does not apply.

Subsection 25(4) added: N.S. Reg. 76/2016.

Clearing TPQ exchange

26 (1) In this Section, "exiting producer" means a producer whose total volume of TPQ is 10 kg or less of butterfat per day and who has submitted an offer to sell their entire TPQ on the TPQ exchange.

(2) At the time a particular TPQ exchange is to operate, the Board must match the volumes and prices that have been submitted by the producers in the offers to sell and buy and must determine the point at which

offers to buy and offers to sell most closely match on the basis of price and volume according to the following table:

TPQ
\$ Price
Lowest to Highest
Kilograms Offered For Sale at Price
Cumulative Sales
Difference
Cumulative Buys
Kilograms Offered to Buy at Price

(3) The procedure described in this Section is known as “clearing” the TPQ exchange.

(4) The market clearing price as determined by clearing the TPQ exchange is the price that TPQ is deemed to be sold or bought for on the TPQ exchange.

(5) If a producer offers to buy TPQ at a price equal to or higher than the market clearing price, then that offer is deemed to be successful and the transaction will take place at the market clearing price.

(6) If a producer offers to sell TPQ at a price equal to or lower than the market clearing price, then that offer is deemed to be successful and the transaction will take place at the market clearing price.

(7) If, at the market clearing price, the cumulative volume of the successful offers to buy is greater than the cumulative volume of the successful offers to sell, the TPQ must be distributed to buyers according to the following order of priority:

(a) first, if there is a successful buy offer from an assisted new producer who is in their quota acquisition period as described in the Board policy and who, immediately before the TPQ exchange, held less TPQ than the buyer prorate exemption amount prescribed in the Board policy, the TPQ must be allocated to the assisted new producer until 1 of the following conditions is satisfied:
Clause 26(7)(a) amended: N.S. Reg. 373/2015.

(i) all of the TPQ is allocated to the assisted new producer,

(ii) the assisted new producer’s buy offer is filled,

(iii) the TPQ held by the assisted new producer immediately before the TPQ exchange plus the amount of TPQ bought by the producer is equal to the buyer prorate exemption amount prescribed in the Board policy;

(aa) second, if there is a successful buy offer from an assisted new producer who began selling milk to the Board after 2015 and the TPQ exchange is taking place during a month in which the assisted new producer is required by the Board to reimburse TPQ to the Board in accordance with [the] Board policy, the TPQ must be allocated to the assisted new producer until 1 of the following conditions is satisfied:

(i) all of the remaining TPQ is allocated to the assisted new producer,

(ii) the assisted new producer’s buy offer is filled,

(iii) the amount of TPQ bought by the assisted new producer is equal to the amount prescribed in the Board policy as the buyer prorate exemption amount during the reimbursement period;
Clause 26(7)(aa) added: N.S. Reg. 373/2015.

(b) third, a portion of any remaining TPQ must, subject to subsection (8), be allocated to each producer with an unsatisfied successful buy offer through iteration of TPQ in increments of 0.01 kg, as follows:

Clause 26(7)(b) amended: N.S. Reg. 373/2015.

(i) in each allocation round, each producer whose buy offer remains unsatisfied must be allocated 0.01 kg of TPQ,

(ii) allocation rounds must continue until the total allocation at the end of a completed round is at least 50% of the TPQ that was not allocated under clauses (a) and (aa), and then the remaining unallocated TPQ must be allocated by proration in accordance with clause ©,
Subclause 26(7)(b)(ii) amended: N.S. Reg. 76/2016.

(iii) if there is insufficient unallocated TPQ to allow for at least 1 complete allocation round, an allocation round must not occur and the remaining unallocated TPQ must be allocated by proration in accordance with clause (c);

(c) fourth, any remaining TPQ must, subject to subsection (8), be prorated to the extent necessary to balance the exchange, so that each producer who has an unsatisfied successful buy offer buys the volume of TPQ calculated as follows:

Volume bought = volume of unsatisfied successful buy offer ×
(remaining cumulative volume of successful offers to sell)
(remaining cumulative volume of successful offers to buy)

Clause 26(7)(c) amended: N.S. Reg. 373/2015.

Subsection 26(7) replaced: N.S. Reg. 132/2012.

(8) If an assisted new producer acquires TPQ under clause (7)(a), and part of their successful buy offer remains unsatisfied, the assisted new producer must not be allocated any TPQ under clause (7)(b) or (c) on that exchange.

Subsection 26(8) replaced: N.S. Reg. 132/2012.

Subsection 26(9) repealed: N.S. Reg. 132/2012.

(10) Subject to subsections (11) and (12), if, at the market clearing price, the cumulative volume of successful offers to sell is greater than the cumulative volume of the successful offers to buy, the TPQ sold at the market clearing price must be pro-rated for sellers to the extent necessary to balance the exchange, so that each producer who has a successful offer to sell sells the volume of TPQ calculated as follows:

Volume sold = volume producer offered for sale ×
(cumulative volume of successful offers to buy)
(cumulative volume of successful offers to sell)

(11) If a TPQ exchange would otherwise be pro-rated for sellers, and one or more of the producers who has a successful offer to sell is an exiting producer, then, before pro-rating the exchange,

(a) all of the TPQ offered for sale by the exiting producer or producers who have successful offers to sell must be sold; and

(b) the exchange must then be pro-rated for sellers, based upon the remaining cumulative volume offered for sale and the remaining cumulative volume of successful offers to buy at the market clearing price.

(12) If the total volume of TPQ offered for sale by all exiting producers who have successful offers to sell is greater than the cumulative volume of successful offers to buy at the market clearing price,

(a) the total volume of TPQ offered for sale by the exiting producers must be pro-rated for exiting sellers; and

(b) no other TPQ must be sold at that exchange.

Subsection 26(13) repealed: N.S. Reg. 132/2012.

Notifying participants of results of offers

27 The Board must individually notify each participant on a TPQ exchange in writing of whether or not their offer was successful.

When transfer of quota effective

28 TPQ bought on a TPQ exchange is transferred to the successful buyer effective at the beginning of the following pay period.

Leasing TPQ

29 (1) A TPQ lease is not effective until it is approved by the Board.

(2) Only an active producer may enter into a lease of TPQ and, except as provided in subsection 30(6), the maximum amount of TPQ that a producer may lease is 25% of their TPQ.

Subsection 29(2) amended: N.S. Reg. 76/2016.

(3) A TPQ lease must be submitted to the Board in writing and on the standard form supplied by the Board, and must be accompanied by payment of a non-refundable administrative fee in an amount set by the Board.

(4) A TPQ lease starts at the beginning of a pay period and ends on the last day of that same pay period.

(5) Leased TPQ reverts to the lessor on expiry of the lease.

(6) Any adjustment to Provincial TPQ made under Section 12 applies to all TPQ leased.

(7) Subject to subsection (6), on the expiry of a lease, the adjusted amount of the leased TPQ will be returned to the lessor.

(8) A producer must not be both a lessor and a lessee at the same time.

Leasing TPQ in event of catastrophe

30 (1) In this Section, "catastrophe" includes

(a) severe injury to, or the illness or death of, a producer or a producer's dairy herd; and

(b) destruction of a producer's dairy facilities.

(2) If, because of a catastrophe, a producer reduces production or discontinues production temporarily, the producer may lease up to 100% of their TPQ to 1 or more producers.

Subsection 30(2) amended: N.S. Reg. 76/2016.

(3) A lease under this Section must be submitted in accordance with subsection 29(3) as soon as possible and no later than the end of the pay period immediately before the start of the lease, and must include evidence of the catastrophe that is satisfactory to the Board.

(4) The Board may approve a lease under this Section for up to 6 months, and may allow the lease to be renewed for up to a further 6 months.

(5) Any renewals or extensions of a lease beyond 12 months must be decided by the Board on a month-to-month basis.

(6) If a producer is milking cows from the dairy herd associated with TPQ leased under this Section, the Board may allow the producer to also lease TPQ under Section 29, but the TPQ leased under Section 29 must not exceed the maximum set out in subsection 29(2).

(7) If a producer is not milking cows from the dairy herd associated with TPQ leased under this Section, the total amount of TPQ leased by the producer under this Section and Section 29 must not exceed the maximum set out in subsection 29(2).

Over-quota milk price

31 All shipments of over-quota production must be paid at the over-quota price for the pay period in which it is produced.

Additional production days

32 (1) A producer may receive additional production days of TPQ if the producer has fully utilized their TPQ and any TPQ leased to them under Section 29 for the current month.

Subsection 32(1) amended: N.S. Reg. 76/2016.

(2) Despite the allowance for carrying over under-production in subsection 14(7), any additional monthly allocation of TPQ that is not utilized in the month in which it is issued must be carried forward for future use, unless the Board decides otherwise.

Subsection 32(2) amended: N.S. Reg. 76/2016.

(3) A producer who is leasing TPQ to another producer under Section 29 is not eligible to receive additional production days of TPQ for the current month.

Dalhousie University exemption

33 Subsections 14(6), (7) and (8), respecting the limit of cumulative under-production and the carrying forward of under-production, do not apply to Dalhousie University.

Section 33 replaced: N.S. Reg. 132/2012.

Schedule "A" repealed: N.S. Reg. 132/2012.