

BC MILK MARKET BOARD

REGULARIZATION OF GRADUATED ENTRY PROGRAM QUOTA



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The British Columbia Milk Marketing Board (the “Board”) is the governing body for milk producers in British Columbia. One of the mandates of the Board is to maintain a register of licensed milk producers and allot milk quota to licensed producers. Quota is essentially a license to ship milk from a particular dairy farm. The Board has a Graduated Entry Program (GEP) under which new milk producers are issued quota by the Board so that they can begin producing and shipping milk. Some participants in the GEP were issued GEP quota but were unable or unwilling to use the quota themselves. In some cases, they then leased or sold the GEP quota to another party who needed the quota to ship milk.

Such transfers are contrary to the Board rules that govern the GEP (the “Rules”) which provide that a participant in the GEP must be “actively engaged in milk production” in order to qualify for the GEP Quota and in order to continue to use the GEP Quota as a license to ship milk from a particular dairy farm. Under the Rules, when determining whether a person is “actively engaged in milk production” the Board will look at whether the GEP Quota is being used for the benefit of the GEP participant that the quota has been allotted to, whether the participant is active in the day-to-day affairs of the dairy farm, whether the participant operates and controls the dairy farm, whether the participant owns or leases the dairy farm, whether the participant pays for all of the supplies on the farm and whether the participant is entitled to any profits of the farm.

Accordingly, when a GEP participant transfers quota to another person, they will normally no longer be “actively engaged in milk production” in relation to the farm for which the quota is being used. As this is a violation of the Rules, the Board is then entitled to cancel the quota, which will mean that the person using the quota will no longer have a license to ship milk from the farm in question. In addition, GEP participants that are not in compliance with the rules are unable to transfer their quota because the quota is technically subject to cancellation for non-compliance with the Rules.

However, earlier this year the Board decided to offer GEP participants a one time opportunity to formally transfer their quota to the person who is actually actively engaged in milk production and using the quota as a license to ship milk. Under this “regularization program” the Board is requiring that a transfer application form be signed by the registered GEP participant personally and that the transfer be completed and recorded under the name of the person actually using the quota on or before December 1, 2008. If the transfer is not finalized by this date, the quota is in jeopardy of being cancelled by the Board.

This regularization program demonstrates that the Board has recognized that in many cases GEP quota has been transferred or leased to another party that is not the registered owner of the quota, which is a violation of the Rules. The purpose of the regularization program is to systematically eliminate all such arrangements such that GEP quota is used only by those who are actually actively involved in milk production and using the quota to ship the milk produced.

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