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# **Egg Farmers of Ontario Policies, Programs & Procedures 2011**

## **SECTION 3: Egg Quota Policy**



## Egg Quota Policy

### Application and Purpose

1. Quota belongs to the Board and is administered by the Board to ensure the orderly marketing of eggs in Ontario as part of Canada's comprehensive supply management system.
2. This Quota Policy forms the basis on which quota is fixed and allotted by the Board. Quota holders are required to comply with this Quota Policy at all times.
3. This Quota Policy is subject to revision, revocation and interpretation by the Board in its discretion. This Quota Policy is for quota holders' convenience and is not absolute. Quota holders planning any quota dealings should contact the Board office.
4. Any request for an exemption from this Quota Policy must be made to the Board in writing, with reasons.
5. Upon receipt of correctly completed documents, the transfer[s] will be presented at the next regular meeting of the Board. The Board usually meets the first Wednesday and Thursday of every month; meeting dates are published monthly in the Cackler. All documents must be received in the Board's office at least TEN [10] working days prior to the Board meeting date in order to be considered by the Board, otherwise the transfer[s] will be presented for Board consideration at the next scheduled Board meeting.
6. This Quota Policy should be read in conjunction with the General Regulations of the Board. Quota holders who qualify for the exemptions from quota in the General Regulations are exempt from this Quota Policy.

### Interpretation

7. [a] **"Board"** means Egg Farmers of Ontario;  
[b] **"buyer"** means a person who proposes to buy quota;  
[c] **"EFC"** means Egg Farmers of Canada [formerly Canadian Egg Marketing Agency];  
[d] **"egg quota"** means a quota for producing and a quota for marketing the maximum number of eggs that the quota holder is entitled to market;  
[e] **"encumbrancer"** means the holder of any lien registered against the title of the registered premises at the appropriate land registry office;  
[f] **"fowl quota"** means a quota for possessing the maximum number of fowl that the quota holder is entitled to possess;  
[g] **"quota"** includes egg quota and fowl quota;  
[h] **"quota holder"** means a producer to whom a quota has been fixed and allotted;  
[i] **"registered premises"** means the lands and buildings used for egg production in respect of which the Board has fixed and allotted quota;  
[j] **"seller"** means a quota holder who proposes to sell quota;  
[k] **"transfer"** includes a sale or purchase of quota;  
[l] **"HACCP / On Farm Food Safety / Start Clean Stay Clean"** HACCP is an internationally recognized method of identifying hazards to food safety and analyzing the critical points at which those hazards can be controlled



## Transfer of Quota With Registered Premises

as amended July 2011

8. [a] A quota holder may apply to the Board to transfer the whole quota together with a transfer of title of the registered premises.
- [b] The Board will consider an application once complete and may approve same, if satisfied that all of its requirements have been met.
- [c] Upon approval, the Board will cancel the quota of the seller and fix and allot a like amount of quota to the buyer.
- [d] There is no limit to the amount of quota that may be acquired when it is part of the acquisition of title to the registered premises in respect of which the quota is fixed and allotted. Refer to section 9 [d], [e], [f], [g] for the maximum quota purchase policy.

### **Seller:**

- [e] No application under subsection [a] will be approved by the Board where the seller,
- [i] owes any licence fees, levies, interest or other monies to the Board or EFC;
  - [ii] is in violation of any Regulation, policy, order or direction of the Board or EFC;
  - [iii] has not been the owner of the applicable registered premises for at least two years [twenty-four months] prior to the effective date of the transfer.
- [f] The seller shall:
- [i] complete and file with the Board,
    - (a) an application in Form 1-09;
    - (b) a legal opinion of the seller's solicitor confirming;
      - (i) the parties to the transaction
      - (ii) details of any partners or shareholders of the seller
      - (iii) names of any encumbrances on the title to the registered premises
      - (iv) confirmation of the registration of a deed/transfer in favor of the buyer
    - (c) Form 3-09 (Family) or Form 3-09 (Corporation) Declaration of Ownership
    - (d) Consent of Encumbrancer or Security Holder, Form 4-09
    - (e) Quota Release Statement, Form 5-09
  - [ii] pay to the Board an application fee of \$100.00 plus tax;
  - [iii] have a Pullet Order Report on file with the Board prior to the transfer being processed.

### **Buyer:**

- [g] The buyer shall:
- [i] complete and file with the Board,
    - (a) an application in Form 2-09;
    - (b) a legal opinion of the buyer's solicitor confirming;
      - (i) the identity of the buyer and the names of any partners or shareholders of the buyer, where applicable;
      - (ii) that the buyer is the registered owner of the registered premises in accordance with the deed/transfer;
      - (c) Form 3-09 (Family) or Form 3-09 (Corporation) Declaration of Ownership
  - [ii] have a Pullet Order Report on file with the Board prior to the transfer being processed;
  - [iii] satisfy the Board that the buyer will have the care and management of the egg production facility.



## Transfer of Quota Without Registered Premises

as amended July 2011

9. [a] A quota holder may apply to the Board to transfer all or part of a quota without a transfer of registered premises.
- [b] The Board will consider an application once complete and may approve same, if satisfied that all of its requirements have been met.
- [c] Upon approval, the Board will cancel the quota of the seller and fix and allot a like amount of quota to the buyer.
- [d] No buyer may acquire more than 25,000 units of quota or such other amount as may be determined by the Board from time to time.
- [e] A quota holder with less than 25,000 units of quota may acquire up to that amount of quota.
- [f] Subject to paragraph (e) no buyer may acquire more than 5,000 units of quota without registered premises in any calendar year.
- [g] Each quota holder is eligible for a retroactive purchase allotment of 5,000 units of quota; times the number of years that person has been a quota holder, up to a maximum of five (5) years, including the first year of purchase, which purchase allotment may be carried forward to a maximum of 25,000 units of quota, less the number of units of quota purchased or acquired by that quota holder since January 1, 2007.

**Seller:** [h] No application under subsection [a] will be approved by the Board where the seller,

- [i] owes any licence fees, levies, interest or other monies to the Board or EFC;
- [ii] is in violation of any Regulation, policy, order or direction of the Board or EFC;
- [iii] has not been the owner of the quota for at least two years [twenty-four months] prior to the effective date of the transfer.

- [i] The seller shall:
- [i] complete and file with the Board,
    - (a) an application in Form 1-09;
    - (b) a legal opinion of the seller's solicitor confirming;
      - (i) the parties to the transaction
      - (ii) details of any partners or shareholders of the seller
      - (iii) names of any encumbrances on the title to the registered premises
      - (iv) confirmation of the registration of a deed/transfer in favor of the buyer
    - (c) Form 3-09 (Family) or Form 3-09 (Corporation) Declaration of Ownership
    - (d) Consent of Encumbrancer or Security Holder, Form 4-09
    - (e) Quota Release Statement, Form 5-09
  - [ii] pay to the Board an application fee of \$100.00 plus tax;
  - [iii] have a Pullet Order Report on file with the Board prior to the transfer being processed.

**Buyer:** [j] The buyer shall:

- [i] complete and file with the Board;
  - (a) an application in Form 2-09;
  - (b) a legal opinion of the buyer's solicitor confirming;
    - (i) the identity of the buyer and the names of any partners or shareholders of the buyer, where applicable;
    - (ii) that the buyer is the registered owner of the registered premises in accordance with the deed/transfer;
  - (c) Form 3-09 (Family) or Form 3-09 (Corporation) Declaration of Ownership
- [ii] have a Pullet Order Report on file with the Board prior to the transfer being processed;
- [iii] satisfy the Board that the buyer will have the care and management of the egg production facility.



## Special Relocations

### 10. [a] **Temporary**

A quota holder, who wishes to renovate a building on the registered premises, may apply to the Board to have the quota temporarily relocated to another building for a maximum period of one year or until disposal of the fowl by completing and filing with the Board an application in Form 6-09, subject to the following:

- [i] The temporary building location can only contain fowl owned by the quota holder, and no others;
- [ii] All eggs marketed from the temporary building location shall be marketed by the quota holder and recorded under that quota holder's number.

### [b] **Permanent**

A quota holder may apply to the Board for a permanent relocation of the quota to other premises owned by the quota holder by completing and filing with the Board an application in Form 6-09. The Board will not allow any relocation of quota by a quota holder from one registered premises to another registered premises owned by the same quota holder until the expiry of five [5] years (60 months) from the date such quota was acquired by the quota holder.

### [c] **Conditions to Board Approval**

The Board will only approve a transfer under subsection [a] or [b] where it is satisfied that:

- [i] all conditions for relocation have been met;
- [ii] there are no outstanding licence fees, levies, interest or other monies owing to the Board or EFC by the quota holder;
- [iii] the quota holder is not in violation of any Regulation, policy, order or direction of the Board or EFC;
- [iv] the quota holder is the owner of the other premises in respect of which the quota is to be transferred (applies to permanent relocations, Section [b] above) and has filed with the Board, a legal opinion confirming ownership of the registered premises.

- [d] Upon approval, the Board will cancel the quota fixed and allotted in respect of the registered premises and fix and allot the quota to the quota holder in respect of the new registered premises.



### **Amalgamation of Quotas**

11. [a] For purposes of this Quota Policy "amalgamation of quota" means the cancellation of two or more quotas and the fixing and allotting by the Board to the quota holder of an amount of quota equaling the total of the two or more quotas cancelled, as aforesaid, under a new quota number in respect of one specified registered premises.
- [b] A quota holder who has two or more quotas, in respect of separate registered premises may apply to the Board for the amalgamation of those quotas in respect of one specified registered premises by completing and filing with the Board an application in Form 6-09. The Board will not allow any amalgamation of quotas by the quota holder until the expiry of five [5] years (60 months) from the date such quota was acquired by the quota holder.
- [c] Where two or more quota holders are holders of quota in respect of separate registered premises, they may apply to the Board for the amalgamation of all or part of said quotas in respect of one specified registered premises by completing and filing with the Board an application in Form 6-09. The Board will not allow any amalgamation of quotas by the quota holders until the expiry of five [5] years (60 months) from the date such quota was acquired by the quota holder.

### **One Quota per Barn**

12. The Board does not permit more than one quota to be fixed and allotted in respect of the same barn as part of the registered premises. Where such situations exist, the quota holders must apply to the Board, under section 11, to amalgamate the quotas, failing which the Board may consider cancellation or reduction of same.

### **Multiple Quotas**

13. Where a quota holder has more than one quota:
  - [i] none of such quotas may be exceeded, even though another quota of the same quota holder is not being fully utilized;
  - [ii] sufficient, separate production facilities must be part of the quota holder's registered premises to allow production to the maximum amount permitted under each quota in compliance with Section 20 [On Farm Food Safety], and with Section 21 [Housing Density] of this Quota Policy.

### **Maximum Quota Holdings**

14. While there is no set maximum quota holdings under this Policy, the Board reserves the right to decline to approve any transfer of quota, where it determines that an undue concentration of quota would be vested in any one individual or group to the detriment of other quota holders.



## Family Ownership Updates

15. [a] In this policy a Family Ownership Update is the addition or deletion of a family member as a holder of quota or as a partner or shareholder in a partnership or corporation which holds quota.
- [b] “Family member” means: A spouse, daughter, daughter-in-law, son, son-in-law, mother, father, sister, sister-in-law, brother, or brother-in-law.
- [c] Where a quota holder, whether as an individual, as a shareholder of a corporation or a partner in a partnership, is desirous of including or removing a family member as part of the ownership, such a change, so long as it only involves a family member, need only be reported in writing to the Board in Form 3-09 (Family) or Form 3-09 (Corporation), signed by the parties. No transfer of quota application is required.
- [d] Where the change also involves a change in the ownership of the registered premises, a copy of the registered transfer of title must be filed with the Board.
- [e] No deletion of the interest of a family member can be accepted by the Board unless that family member (or estate where deceased) has filed a written consent with the Board.
- [f] Only family members of legal age and resident in Ontario are eligible to be noted under a Family Ownership Update.
- [g] A Family Ownership Update is not effective unless and until the necessary forms and supporting documentation, where applicable, have been completed and filed with the Board.
- [h] Where a Family Ownership Update is occasioned by a death of a family member, in addition to Form 3-09 (Family), a copy of the Certificate of Appointment of an Estate Trustee with the Will or a legal opinion from a lawyer acting for the estate confirming the deletion of the interest of the deceased is required.
- [i] It is the quota holder’s responsibility to obtain appropriate legal and tax advice as to the implications of any proposed Family Ownership Update.

## Partnerships and Corporations

16. [a] Any change in the ownership of a partnership or of shares in a corporation, which is a quota holder, constitutes a transfer of quota and requires approval of the Board pursuant to this policy (exclusive of Family Ownerships, Section 15).
- [b] Where any change in the ownership under paragraph (a) is proposed, written notice of same shall be filed by the quota holder with the Board not less than 30 days prior to its proposed effective date.
- [c] Every proposed buyer, by making application to the Board, specifically authorizes the Board to inspect all books, records and documents relating in any way to the transfer, including where appropriate, the minute books, shareholders’ register and any other corporate or partnership record or agreements that deal with ownership and control of the proposed buyer and to take such action as the Board deems necessary to verify any such information.
- [d] Where a corporation or partnership which is a quota holder is owned in whole or in part by another corporation or partnership, every such corporation or partnership having any interest therein shall likewise provide the Board with full ownership information to the satisfaction of the Board.



## Waiver of Consent of Encumbrancer

17. The Board may, upon application and after notice to any interested parties, approve a quota transfer application without the consent of an encumbrancer.

## Sanctions

18.
  - [a] All applications for quota transfer are subject to the Board's inspection and verification procedures.
  - [b] Where a quota holder, who acquires or relocates quota pursuant to this Policy, is found to have breached any of the requirements of the transfer application, or failed to make a transfer application when required to do so, the Board may cancel or reduce the quota.
  - [c] Where a seller is found to be in arrears of any licence fees, levies, interest, or other monies owing to the Board or EFC, and the seller does not pay same after a demand by the Board, the Board may assess and collect same from the buyer.
  - [d] The Board may cancel or reduce, refuse to increase, refuse to fix and allot a quota fixed and allotted to any person for any reason that the Board considers proper.
  - [e] Without limiting the generality of the foregoing, in the case of a quota to possess fowl or to produce eggs or pullets the Board may cancel or reduce any such quota as a penalty where the Board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened the Act or the Regulations.
  - [f] Additional or alternative sanctions may apply under Section 19 [Quality Standards], Section 20 [On Farm Food Safety] and Section 21 [Housing Density] of this Quota Policy.
  - [g] Indirect methods to circumvent these policies will not be permitted and where identified may result in an appropriate reduction or cancellation of quota.



### Quality Standards

19. [a] The Board may require a quota holder to satisfy the Board that:
- [i] production of eggs from the quota holder's registered premises is lawful in all respects in accordance with any land use restrictions, zoning by-laws, environmental regulations or requirements;
  - [ii] all industry standards as determined by the Board, from time to time, are met.
- [b] Every quota holder shall have a storage area for eggs that shall be maintained at a temperature of no higher than 13 degrees Celsius.
- [c] Every quota holder shall permit the Board to inspect the quota holders' registered premises as part of its Salmonella testing program and otherwise as deemed necessary by the Board.
- [d] Every quota holder shall comply with EFO's mandatory one week downtime, as the producer changes flocks.
- [e] Where the Board determines that a quota holder is not in compliance with subsection [a], [b] [c] or [d] the Board may require that the quota holder dispose of the eggs produced by that quota holder at the premises in question to a grading station as industrial product and not for the table market in accordance with the pricing structure in place at that time for such eggs. In addition or as an alternative thereto the Board may cancel or reduce or refuse to increase or transfer the quota of the quota holder.

### On Farm Food Safety – HACCP / Start Clean-Stay Clean

20. [a] The Board has adopted the Start Clean – Stay Clean program as set out on Appendix "A".
- [b] All quota holders must obtain Start Clean – Stay Clean certification from the Board.
- [c] A quota holder who has failed to achieve Start Clean – Stay Clean certification may be subject to a five per cent (5%) utilization reduction against the total quota of that quota holder for the entire life of the next flock placed by that quota holder.
- [d] Notwithstanding such five per cent (5%) utilization reduction, the quota holder shall remain liable for licence fees and levies in respect of one hundred per cent (100%) of that quota holder's quota.
- [e] A quota holder against whom the Board has applied a utilization reduction under paragraph (c) may apply to transfer all or part of the quota, which transfer, if approved by the Board, may cancel the utilization reduction [subject to 2010 Housing Density compliance].
- [f] The quota of a quota holder who has not achieved Start Clean – Stay Clean certification on or before June 30, 2010, may be cancelled by the Board.
- [g] One week downtime is mandatory as quota holders change flocks.
- [h] Egg quota holders are required to use HACCP certified pullets in order to maintain HACCP certification.



## Housing Density

21. [a] Based on the Density Guidelines, as set out in the 2003 Code of Practice published by Agriculture and Agri-Food Canada, EFO's Board has established Housing Density Requirements [HDR] which apply to all quota holders.
- [b] The Housing Density Requirements (HDR's) are as follows:
- [i] all quota holders who have installed cages after December 31<sup>st</sup>, 2003, must house white hens at a minimum of 67 square inches of cage space;
  - [ii] all quota holders who have installed cages after December 31<sup>st</sup>, 2003 must house brown hens at a minimum of 75 square inches of cage space;
  - [iii] quota holders with older equipment (prior to December 31<sup>st</sup>, 2003) must comply with the previous Code of Practice. White hens must be housed at a minimum of 64 square inches and brown birds at a minimum of 70 square inches of cage space.
- [c] All birds placed on or after January 1st, 2010, must meet the Housing Density Requirements. No house averaging will be allowed.
- [d] A quota holder not able to meet the Housing Density Requirements under section [c], will have the option of:
- [i] placing units of quota into the EFO Housing Density Adjustment Pool (HDAP) to the amount necessary to meet the Housing Density Requirements;
  - [ii] applying to the Board for the transfer of the number of units of quota necessary to achieve the Housing Density Requirements; or;
  - [iii] in conjunction with other quota holders not able to meet the Housing Density Requirements, seeking Board approval for the establishment of a separate egg production facility for the placement of fowl for the purpose of achieving the Housing Density Requirements at each of the quota holder's individual egg production facilities.
- [e] Effective January 1, 2010, no transfer of quota into an egg production facility will be approved unless the Board is satisfied that placement pursuant to said quota will be within the Housing Density Requirements of the transferee.
- [f] The Housing Density Requirements [HDR] form part of the basis for the fixing and allotting of quotas by the Board.
- [g] If producers are found to be in contravention of EFO's Housing Density Policy the following penalty will apply:
- o An instant invoice of \$2 per bird over cage compliance, the producer will be granted one week to dispose of the extra birds.
  - o EFO Inspectors will follow up and if the producer has not culled birds, a second invoice will be issued and the producer will receive a Hearing Notice to appear before the Board.



## EFO DISCRETION

22. Egg Farmers of Ontario's Quota Policies are subject to the Board's discretion to refuse a transfer of quota for any reason it considers proper and to make such exceptions or amendments as it deems necessary or advisable.

## Revocation

23. [Egg] Quota Policy 2009 made by the Board on the 3<sup>rd</sup> day of February, 2009 is hereby revoked, and this [Egg] Quota Policy is substituted therefore, provided that no such revocation shall affect the previous effect of such quota policy or anything done, or rights or obligations owing there under.

## Policy Effective Date & Amendment

24. This [Egg] Quota Policy takes effect on the 3<sup>rd</sup> day of January, 2011.

### Egg Farmers of Ontario

Carolynne Griffith, Chair

Harry Pelissero, General Manager

Dated at Mississauga, this 1<sup>st</sup> day of December, 2010.