



# Proposed Animal Products (Regulated Control Scheme – Dairy Export Quota Products) Notice 2012

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Te Manatū Ahuwhenua, Ngāherehere



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## SUBMISSIONS

MAF is interested in comments on:

- the consolidation of the Dairy Export Quota Products regulated control scheme specifications and notice; and
- the proposed draft Animal Products (Regulated Control Scheme – Dairy Export Quota Products) Notice 2012.

The following points may be of assistance in preparing comments:

- Wherever possible, comment should be specific to a particular section of this document. All major sections are numbered and these numbers should be used to link comments to the document.
- Where possible, reasons and data to support comments are requested.
- The use of examples to illustrate particular points is encouraged.
- As a number of copies may be made of your comments, please use good quality type, or make sure the comments are clearly handwritten in black or blue ink. Electronic submissions are welcome.

Please include the following information in your submission:

- the title of the discussion document;
- your name and title (if applicable);
- your organisation's name (if applicable);
- your address.

**Please submit your response by 5:00pm on Monday 14 May 2012.**

**Your comments should be sent to:**

Proposed Animal Products (Regulated Control Scheme- Dairy Export Quota Products) Notice 2012

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## 1 DAIRY EXPORT QUOTA PRODUCTS REGULATED CONTROL SCHEME

The Dairy Export Quota Products regulated control scheme comprises;

- the Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Regulations 2008<sup>1</sup>; and
- the Animal Products (Export Approvals - Dairy Quota) Notice 2008<sup>2</sup>; which covers requirements for export approvals for dairy quota product exported to designated markets; and
- Circular 58 Dairy IMA Certification (D203.1) which specifies requirements for the provision of information for, and issuance of, export approvals including Inward Monitoring Arrangement (IMA) certificates for dairy quota butter and cheese exported to the European Union; and
- Circular 59 Quota Compliance Programmes (D204.1) and the 2007 amendment which specifies requirements for Quota Compliance Programmes (QCPs) for dairy quota butter and cheese exported to the European Union.

## 2 PURPOSE

The purpose of this paper is for the Ministry of Agriculture and Forestry (MAF) to consult on a proposal to issue the Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Notice 2012 and revoke;

- the Animal Products (Export Approvals - Dairy Quota) Notice 2008; and
- Circular 58 Dairy IMA Certification (D203.1)
- Circular 59 Quota Compliance Programmes (D204.1) and the 2007 amendment.

The paper considers two options for the dairy export quota products regulated control scheme;

- continue with the status quo; or
- issue a consolidated Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Notice and revoke the Export Approvals notice, D203.1 and D204.1.

MAF seeks comments from interested parties on;

- consolidation of the Dairy Export Quota Products regulated control scheme specifications and notice; and
- the proposed draft Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Notice 2012.

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<sup>1</sup> the Regulations

<sup>2</sup> Export Approvals notice

### 3 BACKGROUND

The proposal in this discussion paper applies to processors of dairy quota products intended for export to designated dairy quota markets and holders of export licences for dairy products intended for those markets, within the context of the Animal Products Act 1999 and the Dairy Industry Restructuring Act 2001 (DIRA).

New Zealand Food Safety Authority (NZFSA) managed the certification and enforcement requirements of IMA butter and IMA cheese exported into the European Union under the IMA Certification Regulations<sup>3</sup> and two specifications; D203.1 Dairy IMA Certification and D204.1 Quota Compliance Programmes (QCPs) issued under the Dairy Industry Act<sup>4</sup>. D203.1 and D204.1 were issued in 2000 as circulars to cover the designated market requirements for export of butter and cheese to the EU.

In 2005, D203.1 and D204.1 were deemed unchanged to be specifications under the Animal Products Ancillary and Transitional Provisions Act.<sup>5</sup> At this time the Animal Products Act was amended<sup>6</sup> to include dairy products and the Dairy Industry Act was repealed. The 2007 amendment to part of D204.1 was issued following the change in the Commission Regulation 2535/2001<sup>7</sup> increasing the maximum permitted fat level in quota butter from 82 % to 85 %.

The rights to export to designated dairy quota markets were initially allocated to one exporter under the DIRA. The initial allocations expired progressively between June 2007 and December 2010.

In December 2007 the DIRA amendment<sup>8</sup> put in place the policy framework to reallocate rights to designated dairy quota markets after expiry of the initial allocations. The amendment provided for issuing of export licences to multiple dairy exporters and made the rights to export to designated markets available to a wider group.

Designated markets following the expiry of the initial licences are listed in schedule 5A of the DIRA as follows; European Communities butter, cheddar cheese, and cheese for processing; United States cheddar cheese, low-fat cheese, NSPF<sup>9</sup> cheese, other American-type cheese; Japan prepared edible fat; and Dominican Republic milk powder.

At the time of the DIRA amendment, NZFSA put in place a new regulated control scheme, by way of regulations, under the Animal Products Act to manage the certification, monitoring, compliance and enforcement of rights to all designated dairy quota markets. The new Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Regulations 2008 superseded the Dairy Industry (IMA Certification) Regulations 2000 and included additional provisions to manage multiple exporters and the requirements of multiple dairy quota markets. At the same time, the Animal Products (Export Approvals - Dairy Quota) Notice 2008 was put in place to cover requirements for export approvals for dairy quota product exported to designated markets. The two specifications Dairy IMA Certification (D203.1) and Quota Compliance Programmes (D204.1) for EU IMA butter and cheese were retained as part of the regulated control scheme.

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<sup>3</sup> Dairy Industry (IMA Certification) Regulations 2000

<sup>4</sup> Dairy Industry Act 1952

<sup>5</sup> Animal Products (Ancillary and Transitional Provisions) Amendment Act 2005

<sup>6</sup> Animal Products Amendment Act 2005

<sup>7</sup> Commission Regulation (EC) No 2535/2001 laying down detailed rules applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas

<sup>8</sup> Dairy Industry Restructuring Amendment Act 2007

<sup>9</sup> not specifically provided for elsewhere in the schedule of US tariff rate quotas for cheese

At the time of the DIRA amendment the electronic Quota Management Register (QMR) and Quota Management System (QMS) were developed and made operational to record the allocation of export licences and manage the administration and issuance of export approvals. Export licence holders submit applications for export approvals to designated markets on the QMS. MAF verifies the application and can issue an export approval, including IMA certificates.

Further information on the regulated control scheme can be found in the following NZFSA public discussion papers;

- Proposed Dairy Quota Regulated Control Scheme, NZFSA Public Discussion Paper No. 08/07, July 2007

[http://www.foodsafety.govt.nz/elibrary/industry/regulated-control-scheme-dairy-quota-rs/proposed-dairy-quota-rs-discussion\\_paper.pdf](http://www.foodsafety.govt.nz/elibrary/industry/regulated-control-scheme-dairy-quota-rs/proposed-dairy-quota-rs-discussion_paper.pdf)

## 4 PROPOSAL

The Animal Products (Regulated Control Scheme – Dairy Export Quota Products) Notice 2012 proposed in this discussion paper consolidates the 2008 Export Approvals notice and specifications D203.1 and D204.1 into one notice.

In addition, the proposed notice specifies and clarifies requirements for export approvals and QCPs for all designated markets listed in schedule 5A of the DIRA.

The proposed Animal Products (Regulated Control Scheme – Dairy Export Quota Products) Notice 2012 can be viewed through a separate link on the same website cover page.

## 5 OPTIONS

### Option 1; Status Quo

The option of status quo would mean the following notices and specifications remain in force without amendment;

- Animal Products (Export Approvals - Dairy Quota) Notice 2008; and
- Circular 58 Dairy IMA Certification (D203.1); and
- Circular 59 Quota Compliance Programmes (D204.1) and the 2007 amendment.

#### *Advantages*

Current exporters are experienced with the 2008 Export Approvals notice and the specifications and would not have to become familiar with any change.

#### *Disadvantages*

Export licence holders would have to refer to one notice, two specification documents and an amendment. This may be a barrier for new exporters as they become familiar with requirements for export approvals and QCPs.

The reallocation of export licences under the amended DIRA commenced for the 2008 quota year and was completed in 2010. D203.1 and D204.1 are relevant for the EU and do not include QCP and designated market requirements for dairy quota product exported to the U.S.A, Japan and the Dominican Republic. The requirements for these three designated markets are not clearly specified in the regulated control scheme.

The Export Approvals Notice was enacted at the same time as implementation of the electronic Quota Management Register and Quota Management System in 2008 and has not been amended since. Amendment of this notice would clarify requirements relating to information necessary for the operation of the QMS and issuance of export approvals e.g. *clause 6 of the 2008 Notice; Application for dairy quota export approval* requires an application for export approval to be accompanied by a completed dairy quota management system specification reference data form. Logistically it is prudent to submit the reference data in advance of the export approval application for a consignment of dairy quota product, to prevent delay at time of shipment.

The formats of the deemed specifications D203.1 and D204.1 are not consistent with the format for specifications issued under the Animal Products Act and would remain in force.

The 2007 amendment to part of D204.1 which was issued following the change in the Commission Regulation 2535/2001 increasing the maximum permitted fat level in quota butter from 82 % to 85 % will remain as an additional document alongside D204.1.



**Table 1: Option 1 summary of advantages and disadvantages**

Status Quo	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Experienced exporters would retain familiarity with the current notice and specifications.</li> </ul>	<ul style="list-style-type: none"> <li>Export licence holders would have to manage and refer to one notice, two specifications and an amendment.</li> <li>Becoming familiar with one notice and two specifications for requirements for export approvals and QCPs may be a barrier for new exporters.</li> <li>D203.1 and D204.1 relate only to the EU and do not include other designated markets.</li> <li>QCP and designated market requirements for dairy quota product exported to the U.S.A, Japan and the Dominican Republic are not clearly specified.</li> <li>Information necessary for the operation of the QMR, QMS and issuance of export approvals since implementation in 2008 is not updated.</li> <li>Out dated formatting of specifications carried over from the Dairy Industry Act and inconsistent with Animal Product Act formatting remains.</li> <li>The amendment to D204.1 remains as an additional document to D204.1.</li> </ul>

## **Option 2; Issue the proposed Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Notice 2012**

Under this option it is proposed that the Dairy Export Quota Products regulated control scheme specifications and notice for export approval are consolidated in one notice. This would mean the following are revoked and replaced by the Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Notice 2012;

- Animal Products (Export Approvals - Dairy Quota) Notice 2008; and
- Circular 58 Dairy IMA Certification (D203.1);and
- Circular 59 Quota Compliance Programmes (D204.1) and the 2007 amendment.

Commission Regulation 2535/2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas is incorporated by reference into the notice.

The consolidated notice will include requirements for export approvals and QCPs for all designated markets. It will bring over the requirements from D203.1 and D204.1 for IMA certification and QCPs for dairy quota butter and cheese exported to designated markets in the European Union.

One part of the proposed notice will include generic requirements for QCPs and their verification that are not already specified in clause 11 of the Regulations for all designated markets. In addition to the generic requirements it is proposed that another part of the notice will specify designated market access requirements for EU quota butter and cheese which are prescribed in Commission Regulation 2535/2001. Another part of the notice will specify designated market access requirements for dairy quota products for export to the U.S.A., Japan and Dominican Republic. In this way the requirements necessary for export into designated markets in the EU are retained and a more flexible approach is provided for the other designated markets under the same notice.

The notice distinguishes between the mandatory requirement for a QCP verification audit for EU dairy quota butter and cheese and a discretionary requirement for a QCP verification audit determined by the Director-General of MAF to continue access to other designated markets.

The notice includes updated specifications associated with administration of export approvals on the QMR and QMS.

### *Advantages*

Export licence holders would have one consolidated notice to refer to for QCP and export approval specifications instead of one notice, two specifications and an amendment. A consolidated notice would be easier for export licence holders to understand and become familiar with. It would help simplify monitoring changes to the regulated control scheme and updating internal processes and procedures for QCP holders and exporters.

The notice will include specifications for QCPs, designated market requirements and export approvals. It will provide clarity on the specifications relevant for dairy quota product exported to the EU and those relevant for dairy quota products exported to designated markets in the U.S.A., Japan and Dominican Republic. Clarification of designated market requirements reduces the commercial risk of rejection from the tariff quota of export consignments and facilitates the monitoring and control of exports to these designated markets.

The notice will update requirements relating to information necessary for the operation of the QMR and the QMS and issuance of export approvals.

The notice will be formatted consistently for specifications issued under the APA, and the amendment to D204.1 would be incorporated into the main body of the notice.

### *Disadvantages*

Experienced exporters would need to become familiar with the consolidated notice.

References in internal systems of experienced exporters may need a one off update from the old notice and specifications to the new notice.

**Table 2: Option 2 summary of advantages and disadvantages**

Issue the proposed Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Notice 2012	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Export licence holders would have one consolidated notice to refer to for QCP, designated market and export approval specifications.</li> <li>• Simplification for monitoring changes and updating internal processes and procedures for QCP holders and exporters.</li> <li>• Clarity would be provided on specifications for QCPs, designated market requirements and export approvals relevant for dairy quota products exported to the EU and to designated markets in the U.S.A., Japan and Dominican Republic.</li> <li>• Update requirements for the information necessary to operate the QMS and issue export approvals.</li> <li>• A format consistent with the Animal Products Act would replace out dated formatting from the Dairy Industry Act.</li> <li>• The amendment to D204.1 would be incorporated into the main body of the notice.</li> </ul>	<ul style="list-style-type: none"> <li>• Exporters' internal system references would need a one off update and there might be training or other familiarisation efforts required.</li> </ul>

## **6      PREFERRED OPTION**

The preferred option is option 2, to issue the proposed Animal Products (Regulated Control Scheme - Dairy Export Quota Products) Notice 2012. This option;

- replaces one notice, two specification documents and an amendment with one consolidated notice; and
- clarifies specifications for Quota Compliance Programmes, designated market requirements and export approvals for all designated markets; and
- incorporates updates for the operation of the Quota Management Register and Quota Management System; and
- formats the Dairy Export Quota Products regulated control scheme specifications consistently with other specifications under the Animal Products Act.

## **7      LEGISLATIVE FRAMEWORK**

The proposed notice would be issued by the Director-General of MAF pursuant to sections 40(1), 60(1) and 167(1) (g) of the Animal Products Act 1999.

## **8      DRAFT ANIMAL PRODUCTS (REGULATED CONTROL SCHEME – DAIRY EXPORT QUOTA PRODUCTS) NOTICE 2012**

The proposed Animal Products (Regulated Control Scheme – Dairy Export Quota Products) Notice 2012 can be viewed through a separate link on the same website cover page.