



COMMONWEALTH OF PENNSYLVANIA  
MILK MARKETING BOARD

Official General  
Order No. A-875

Posted: Feb. 23, 1993  
Effective: March 4, 1993

SERVICE CONTRACTS

NOW, this 23rd day of February, 1993, the Commonwealth of Pennsylvania, Milk Marketing Board hereby enters the following Official General Order No. A-875 to be effective March 4, 1993:

SECTION A  
INCORPORATION

The Findings of Fact, Discussion, and Conclusions of Law attached as Exhibit A hereto are incorporated herein as though more fully set forth below.

SECTION B  
APPLICABILITY

This Official General Order A-875 shall be applicable to Pennsylvania Milk Marketing Areas 1, 2, 3, 4, 5, and 6.

SECTION C  
DEFINITIONS

The following words and terms when used in this Order shall have the following meanings unless the context clearly indicates otherwise:

Provision 1 - Act: The act of April 28, 1937, P.L. 417, No. 105, as amended (31 P.S. §700j-101 et seq.) known as the Milk Marketing Law.

Provision 2 - Board: The Pennsylvania Milk Marketing Board.

Provision 3 - Service Contract: An agreement under which one milk dealer performs manufacturing, processing, bottling or delivery services for another milk dealer.

SECTION D  
MINIMUM PRICES

The provisions of the Official General Order for the relevant milk marketing area shall govern all milk transactions except for those transactions conducted pursuant to a service contract approved by the Board in accordance with this Official General Order A-875.

SECTION E  
SERVICE CONTRACTS

Provision 1 - A milk dealer intending to perform manufacturing, processing, bottling or delivery services for another milk dealer, pursuant to a service contract, shall submit an application for approval to the Board at least seven Commonwealth business days prior to the effective date of the service contract.

If the application is complete and indicates compliance with the Act and the Regulations and Orders of the Board, based upon information available to the Board Staff, the Secretary of the Board may approve the service contract pending audit and a decision by the Board pursuant to Section E, Provision 3 below.

If the application is incomplete or indicates noncompliance with the Act or the Regulations or Orders of the Board, based upon information available to the Board Staff, the Secretary of the Board may disapprove the service contract pending audit and a decision by the Board pursuant to Section E, Provision 3 below.

Provision 2 - An application for approval of a service contract shall include:

- (a) a copy of the service contract;
- (b) a schedule of cost center and operating ledger accounts as described in §149.43 of the regulations of the Board (7 Pa. Code §149.43) for the dealer performing the manufacturing, processing, bottling and delivery services. This schedule shall be prepared for the most recent month available and shall state the number of points for each cost center and operating ledger account during the period including, at the option of the dealer, a separate accounting for milk volumes and expenses anticipated under the service contract, and shall correspond to the most recently submitted Form PMMB-60;
- (c) a detailed description of the services to be provided pursuant to the service contract;
- (d) a detailed description of the prices by cost center to be paid pursuant to the service contract, set forth by product, container size, and unit price;

(e) a statement of the average weekly volume of milk, in quarts, to be handled by each location pursuant to the service contract;

(f) a statement of the source of raw milk to be handled pursuant to the service contract;

(g) a statement identifying the party responsible for paying for the raw milk, furnishing any required bond, and making any required payments to the Milk Producers' Security Fund; and

(h) a fee of \$2,000.00.

Provision 3 - The Board shall approve or disapprove a service contract within ninety days of the submission of a complete application unless a party to the service contract has failed to cooperate with the Board's staff in the conduct of such audits or investigations deemed necessary to determine compliance with the Act or this Official General Order, or both. The Board may conduct a hearing prior to disapproving an application for approval of a service contract. The Board shall assign a service contract number to all service contracts submitted for approval.

Provision 4 - A service contract shall be approved unless any of the following occur:

(a) either party to the service contract does not hold or is not granted a dealer's license;

(b) the prices to be paid for the manufacturing, processing, bottling or delivery services are less than the cost of the services provided. Costs shall be based upon average per unit cost of the services provided at the plant providing services, as determined in accordance with generally accepted accounting principles and adjusted for significant changes in average per unit cost. In determining the cost of the services provided, the costs of raw milk to all dealers and handlers shall be computed at not less than the minimum prices to producers as determined in accordance with the Act or Federal law which prices shall also be paid to producers; or

(c) the total volume of milk handled pursuant to the service contract does not average at least 100,000 quarts per week and 1,500 quarts per delivery per location.

#### SECTION F CONTRACTS NOT PREVIOUSLY APPROVED

An existing service contract not previously approved by the Board shall be deemed approved, irrespective of any other provision

of this Official General Order A-875, provided:

(a) all parties to the service contract hold milk dealer's licenses issued by the Board; and

(b) a copy of the service contract and proof of its existence prior to February 1, 1993 is submitted to the Board within thirty days of the effective date of this Official General Order A-875.

SECTION G  
RECORDS AND AUDITS

Provision 1 - A milk dealer providing services pursuant to a service contract shall submit separate invoices for milk and finished products sold pursuant to a service contract to the purchaser at least weekly. Each invoice shall set forth:

(a) the dates of delivery;

(b) the names and address of the purchaser and the dealer providing the service;

(c) the service contract number assigned by the Board; and

(d) the quantity, product, container size, type, number of units and unit price, detailed as to processing, packaging, delivery and raw product costs of each finished product handled pursuant to the service contract.

Provision 2 - The Board may periodically audit each approved service contract. If, as a result of any such audit, it is determined that services are being provided for less than cost, the parties shall be given thirty days to adjust such prices. If the parties fail to adjust any prices that are determined to be below cost, within such thirty-day period, the Board may revoke its approval of the service contract.

Provision 3 - Dealers providing services pursuant to a service contract shall provide annually, with their milk dealer's financial statement, a current price list for each service contract and a \$1,000.00 renewal fee. Each price list shall note the service contract number assigned by the Board and shall set forth the prices detailed as to processing, packaging, delivery and raw milk charges and the period during which the prices were applicable.

SECTION H  
SECONDARY SUPPLIERS

Where a milk dealer is purchasing services from another milk dealer pursuant to a Board approved service contract which satisfies the volume requirements of Section E, Provision 4, Paragraph (c), another milk dealer may provide services to the purchasing milk dealer without regard to the volume requirements of Section E, Provision 4, Paragraph (c). All other provisions of the Act and this Official General Order shall apply to any such service contract.

SECTION I  
SEVERABILITY

If any section, provision, part or clause of this Official General Order shall be determined to be unconstitutional or contrary to law, the remainder of the Official General Order shall be given effect as though such section, provision, part or clause had not been included.