



**Commonwealth of Pennsylvania**  
Milk Marketing Board  
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Official General  
Order No. A-966

Posted: October 22, 2009  
Effective: November 1, 2009

### **OVER-ORDER PREMIUM**

NOW, this 22<sup>nd</sup> day of October 2009, the Commonwealth of Pennsylvania, Milk Marketing Board (Board) adopts and issues this official general order pursuant to the authority conferred by the Milk Marketing Law, 31 P.S. §§ 700j-101 – 700j-1204. This order will become effective at 12:01 a.m. on November 1, 2009, and will expire at 12:00 midnight on December 31, 2009

#### **SECTION I**

The attached findings of fact and conclusions of law are incorporated herein by this reference as though fully set forth in this order.

#### **SECTION II**

(a) In all milk marketing areas the calculation of the Class I price for milk produced, processed, and sold in Pennsylvania shall include an over-order premium of \$2.65 per hundredweight effective 12:01 a.m. on November 1, 2009, through midnight on December 31, 2009.

(b) Milk dealers shall show by line item on their monthly statements to independent producers and cooperatives the specific amount of the Pennsylvania Milk Marketing Board's over-order premium being paid.

**SECTION III**

All parts of Official General Orders A-893 and A-964 not inconsistent with this order shall continue in effect.

PENNSYLVANIA MILK MARKETING BOARD

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Richard Kriebel, Chairman

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Luke F. Brubaker, Member

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Barbara A. Grumbine, Consumer Member

Date: October 22, 2009

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
EMERGENCY OVER-ORDER PREMIUM HEARING  
OCTOBER 14, 2009**

FINDINGS OF FACT

1. On October 14, 2009, the Pennsylvania Milk Marketing Board (Board) convened an emergency hearing for all milk marketing areas to receive testimony and evidence concerning the level of the over-order premium for November 2009 and December 2009.
2. Notice of the hearing was published in the Harrisburg Patriot-News on October 10, 2009, was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1454, dated October 7, 2009, and was posted on the Board's website at <http://www.mmb.state.pa.us/mmb/lib/mmb/bulletins/bul1454.pdf> on October 7, 2009.
3. Dennis Schad testified as an expert in agricultural economics and milk marketing on behalf of the Greater Northeast Milk Marketing Agency, Dairylea Cooperative Inc.; Dairy Farmers of America, Inc.; Dairy Marketing Services, LLC; Land O'Lakes, Inc.; Maryland and Virginia Milk Producers Cooperative Association, Inc.; and Upstate Niagara Cooperative, Inc. ("Cooperatives"). Mr. Schad recommended that the over-order premium be set at \$2.65 per hundredweight for November 2009 and December 2009. Mr. Schad also recommended that the over-order premium fuel adjuster, Official General Order A-927, continue during the period.
4. Mr. Schad testified that 2009 continued to be an extremely difficult year for Pennsylvania dairy farmers. He also testified that while the price of dairy feed was expected to be lower than in 2008, the aggregate price was expected to remain high relative to recent annual averages and that the Board Staff-Pennsylvania Farm Bureau cost of production survey estimated that Pennsylvania dairy farmers would continue to receive milk prices almost \$4.00 below the cost of production.
5. Mr. Schad testified that cow numbers had decreased both nationally and in Pennsylvania between January and August 2009, but there had been little change in milk production. Mr. Schad further testified that ideal weather conditions in the northeast and midwest had resulted in increased milk production in those regions, with Pennsylvania's milk production for July 2009 and August 2009 increasing over July 2008 and August 2008.
6. Mr. Schad testified that the milk price estimates presented at the June 3, 2009, over-order premium hearing proved to be too optimistic. He did testify that, as expected, milk prices decreased during the second quarter of 2009, but that the expected supply response to those low prices did not materialize due to ample feed and ideal weather in milk producing areas of the country. He also testified that the export market was expected to return in the second half of 2009, impacting milk prices. Further, Mr.

Schad testified that the Cooperatives Working Together program was expected to cause a faster decrease in cow numbers. Mr. Schad testified that a price increase was expected in the fourth quarter of 2009, but that it was not as large an increase as what was expected at the time of the June 2009 hearing, and that even with the expected price increase the average milk price for 2009 would probably be lower than the average milk price for 2006.

7. Mr. Schad testified regarding premiums in nearby markets. The Greater Northeast Milk Marketing Agency over-order price for Class I distribution in New Jersey remained at \$1.37 per hundredweight (including a \$0.17 fuel adjustment); the price for distribution in Maryland and Delaware is \$1.47 per hundredweight. The marketing agency in common in the southeast currently has an over-order price, including fuel adjustment and rBST-free affidavit premium, of \$3.56 per hundredweight, with credits of \$0.40 per hundredweight available. The marketing agency in common in the mideast has an over-order price for October 2009 of \$2.90 per hundredweight (including a fuel adjustment), with credits of \$0.60 per hundredweight available.
8. Richard Ebert testified on behalf of the Pennsylvania Farm Bureau. Mr. Ebert operates a dairy farm in Westmoreland County with his brother. Mr. Ebert is also Vice President of Pennsylvania Farm Bureau and Chairman of the Pennsylvania Farm Bureau Dairy Committee. Mr. Ebert recommended that the over-order premium be set at \$2.65 per hundredweight for November 2009 and December 2009. Mr. Ebert also recommended that the OGO A-927 fuel adjuster remain in effect.
9. Mr. Ebert testified that the majority of dairy farms in Pennsylvania have experienced a dramatic drop in milk prices, with the gross value of his milk check decreasing 37% between August 2008 and August 2009. Mr. Ebert noted that testimony offered at the June 2009 over-order premium hearing projected substantially higher milk prices during the second half of 2009 compared to the first half of the year. He testified that if actual prices had met those projections, producer prices would have increased to levels near Pennsylvania producers' average milk production cost. Mr. Ebert further testified that prices did not increase nearly to the levels projected and were still closer to the prices of the first half of 2009.
10. Mr. Ebert testified that the continuing low prices had impacted his farm's operations. Rather than buying roasted soybeans to feed his cows, Mr. Ebert was buying lower cost byproducts. He also had not inoculated his haylage to improve the product, contrary to his typical practice. Mr. Ebert testified that while those measures had resulted in lower costs, it also resulted in lower production per cow, decreasing his milk check. In addition to the impact on feed and milk per cow output, the low prices had also resulted in Mr. Ebert utilizing a deferred payment for his seed bill, rather than prepaying; due to accrued interest, the deferred payment will increase his costs.
11. Mr. Ebert testified that the longer milk prices stay depressed, the more difficult it is for farmers to be an acceptable credit risk for banks. However, as farmers continue to lose revenue, lines of credit become critical to the operation of the farm. Mr. Ebert believed

that the point where he and other dairy farmers might have to look seriously at whether dairy farming was something they could continue to do.

12. The Board finds that the over-order premium should be set at \$2.65 per hundredweight from November 1, 2009, through December 31, 2009. The Board also finds that the over-order premium fuel adjuster should continue.

The Board finds credible and persuasive Mr. Schad's testimony regarding projected milk prices for the remainder of 2009. The Board also finds credible and persuasive Mr. Schad's testimony regarding premiums outside Pennsylvania and his testimony regarding the effect competitive conditions have on the level at which the Board-mandated premium should be set. Further, the Board is aware of the price projections for the second half of 2009 presented at the June 2009 over-order premium hearing and the fact that those projections did not occur in fact.

The Board finds the testimony of Mr. Ebert regarding the situation on his farm to be credible and persuasive. The Board also finds credible and persuasive, based on Mr. Ebert's positions with the Pennsylvania Farm Bureau and our own knowledge of the Pennsylvania dairy industry, Mr. Ebert's testimony regarding the effect depressed milk prices are having on dairy farmers generally in Pennsylvania and the decisions they are making regarding continuing dairy farming.

Based on the credible and persuasive testimony of Mr. Schad and Mr. Ebert, the Board finds that the continuing low prices being received by Pennsylvania dairy farmers and competitive conditions affecting the Pennsylvania dairy industry warrant increasing the base over-order premium to \$2.65 per hundredweight for November 2009 and December 2009.

## CONCLUSIONS OF LAW

1. The October 14, 2009, emergency hearing on the over-order premium was held pursuant to the authority granted to the Board in sections 801 and 803 of the Milk Marketing Law (Law), 31 P.S. §§ 700j-801 and 700j-803.
2. The hearing was held following adequate notice and all interested parties were given a reasonable opportunity to be heard.
3. All parts of Official General Order No. A-893 not inconsistent with the attached order will continue in effect.
4. In accordance with Official General Order No. A-894, milk dealers shall continue to show by line item on their monthly statements to independent producers and cooperatives the specific amount of the Pennsylvania Milk Marketing Board's over-order premium being paid.
5. In accordance with Official General Order No. A-894 (Supplemental), the over-order premium will continue to apply only to Class I milk produced, processed, and sold in Pennsylvania.
6. In adopting this order, the Board considered the entire record and concludes that the order is supported by a preponderance of credible evidence and is reasonable and appropriate under sections 801 and 803 of the Law.
7. The attached order may be amended pursuant to the procedures set out in section 801 of the Law.

### PENNSYLVANIA MILK MARKETING BOARD

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Richard Kriebel, Chairman

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Luke F. Brubaker, Member

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Barbara A. Grumbine, Consumer Member

Date: October 22, 2009

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