



**Commonwealth of Pennsylvania**

Milk Marketing Board  
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Official General  
Order No. A-980

Posted: July 11, 2012  
Effective: August 1, 2012

**FLAVORED NONFAT MILK**

NOW, this 11<sup>th</sup> day of July 2012, 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 August 1, 2012.

**SECTION A  
INCORPORATION**

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

**SECTION B  
SCOPE**

- (a) This official general order governs resale pricing of flavored nonfat milk.
- (b) Resale prices for flavored nonfat milk shall be established in each of the milk marketing areas using the ingredient costs and butterfat tests adopted in this order.
- (c) For costs other than the ingredient costs and butterfat tests adopted in this order, resale prices for flavored nonfat milk shall be established in each of the milk marketing areas using the costs adopted in the currently effective cost replacement order in each area.
- (d) Resale prices for flavored nonfat milk shall cover the butterfat range of 0.00% to 0.49%. Accordingly, flavored reduced fat milk shall cover the butterfat range of 0.50% to 3.09%.

**SECTION C**

All parts of Official General Orders A-902, A-951 (CRO 3), A-953 (CRO 3), A-962 (CRO 2), A-963 (CRO 2), A-954 (CRO 2), and A-956 (CRO 2) not inconsistent with Section B of this order continue in effect.

**PENNSYLVANIA MILK MARKETING BOARD**

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Luke F. Brubaker, Chairman

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Richard Kriebel, Member

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Lynda J. Bowman, Consumer Member

Dated: July 11, 2012

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FLAVORED NONFAT MILK RESALE PRICES HEARING  
JUNE 6, 2012**

**FINDINGS OF FACT**

1. On June 6, 2012, the Pennsylvania Milk Marketing Board (“Board”) convened a hearing for all milk marketing areas to receive testimony and evidence concerning resale pricing of flavored nonfat milk.
2. Notice of the hearing was published at 42 *Pennsylvania Bulletin* 2255 on April 21, 2012, and was mailed to those on the Board’s interested persons list by means of Bulletin No. 1485, dated April 11, 2012.
3. Carl Herbein testified on behalf of the Pennsylvania Association of Milk Dealers as an expert in cost accounting and milk cost accounting. Mr. Herbein testified that due to changes in the regulations governing milk products that may be served as part of the national school lunch and breakfast programs, participating schools serving flavored milk will be required to serve nonfat, rather than low fat, milk beginning July 1, 2012. Currently, the Board does not establish minimum resale prices for flavored nonfat milk. Based on the changes in the national school lunch and breakfast programs, the Board finds that minimum resale prices should be established for flavored nonfat milk.
4. Based on Mr. Herbein’s uncontradicted and credible testimony, the Board finds that the following ingredient costs should be used to establish minimum resale prices for flavored nonfat milk.

Area 1	\$0.0392/pound
Area 2	\$0.0392/pound
Area 3	\$0.0392/pound
Area 4	\$0.0392/pound
Area 5	\$0.0392/pound
Area 6	\$0.0392/pound

5. The ingredient costs in each area are identical because Mr. Herbein utilized a statewide analysis of costs of a cross-section of dealers for purposes of this hearing. Mr. Herbein recommended that the ingredient costs be updated as part of the annual cost replacement process on an area-by-area basis. The Board agrees and finds that the ingredient costs for flavored nonfat milk shall be updated as part of the annual cost replacement process in each area.
6. Mr. Herbein also recommended that, following cost replacement-related updates to the flavored nonfat milk ingredient costs, the flavored nonfat milk ingredient costs be adjusted as part of the quarterly ingredient costs adjustments currently performed for flavored milk. The Board agrees and finds that, following cost replacement-related

updates to the flavored nonfat milk ingredient costs, those costs shall then be updated quarterly with the flavored milk ingredient costs adjustments currently being done.

7. Based on Mr. Herbein's uncontradicted and credible testimony, the Board finds that the following butterfat tests should be used to establish minimum resale prices for flavored nonfat milk.

Area 1	0.0949%
Area 2	0.0943%
Area 3	0.1048%
Area 4	0.1669%
Area 5	0.1130%
Area 6	0.1484%

These butterfat tests are the butterfat tests for unflavored nonfat milk in the current order in each area. The Board finds that these butterfat tests should be updated as part of the annual cost replacement process in each area.

8. The Board finds that all other costs used to establish minimum resale prices should be used in each area to establish minimum resale prices for flavored nonfat milk. The Board also finds that minimum resale prices for flavored nonfat milk should be established across all container sizes.

**CONCLUSIONS OF LAW**

1. The June 6, 2012, hearing regarding minimum resale prices for flavored nonfat milk was held pursuant to the authority granted to the Board in sections 801, 802, and 803 of the Milk Marketing Law (Law), 31 P.S. §§ 700j-801, 700j-802, and 700j-803.
2. The hearing was held following adequate notice, and all interested parties were given a reasonable opportunity to be heard.
3. In adopting this order, the Board has 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, 802, and 803 of the Law.
4. 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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Luke F. Brubaker, Chairman

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Richard Kriebel, Member

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Lynda J. Bowman, Consumer Member

Dated: July 11, 2012

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