



Commonwealth of Pennsylvania
Milk Marketing Board
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Official General
Order No. A-984

Posted: December 18, 2013
Effective January 1, 2014

OVER-ORDER PREMIUM

NOW, this 18th day of December 2013, 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 January 1, 2014, and will expire at 12:00 midnight on September 30, 2014.

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 \$1.60 per hundredweight effective 12:01 a.m. on January 1, 2014, through midnight on September 30, 2014.

(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 Order A-893 not inconsistent with this order shall continue in effect.

PENNSYLVANIA MILK MARKETING BOARD

Luke F. Brubaker, Chairman

Richard Kriebel, Member

Lynda J. Bowman, Consumer Member

Date: December 18, 2013

FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
December 4, 2013

FINDINGS OF FACT

1. On December 4, 2013, the Pennsylvania Milk Marketing Board (“Board”) held a hearing for all milk marketing areas to receive testimony and evidence concerning the level and duration of the over-order premium.
2. Notice of the hearing was published at 43 Pennsylvania Bulletin 6470 on October 26, 2013, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1496, dated October 16, 2013.
3. Dean Ellinwood testified as an expert in raw milk marketing, procurement from producers, and sales to handlers on behalf of the Greater Northeast Milk Marketing Agency (“GNEMMA”). Members of GNEMMA with producers in Pennsylvania are 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. Ellinwood recommended that the over-order premium be set at \$1.60 per hundredweight through August 31, 2014. Mr. Ellinwood suggested the premium run through August, followed by typical six-month terms, to allow for a re-set in when over-order premium hearings are held.
4. Mr. Ellinwood testified that Pennsylvania’s farm milk production increased 1.5% in September 2013 as compared to September 2012; the increase in the 23 selected states’ milk production for the same period was 1.1%. Mr. Ellinwood also testified that Pennsylvania milk production increased 0.2% for October 2013 when compared to October 2012.
5. Mr. Ellinwood testified that U.S. farm milk price is expected to decline in 2014. He testified that production in New Zealand had increased in 2013 and was expected to continue to increase in 2014. Mr. Ellinwood testified that the increased New Zealand production would be manufactured into exported products, resulting in the U.S. milk price being lower. Price forecasts presented by Mr. Ellinwood predicted a decrease of approximately \$2.00/hundredweight for the Class III price and \$2.50/hundredweight for the Class IV price during the early spring months of 2014, as compared to fall 2013 prices.
6. Mr. Ellinwood testified that farm milk production is currently in balance with milk demand in the northeast. He testified that since May 2013 milk processing plant expansion has continued. Mr. Ellinwood further testified that the new and expanding plants in the northeast would impact the demand for Pennsylvania milk and indicate a very tight milk supply/demand situation. Mr. Ellinwood also testified that the GNEMMA class I over-order price for distribution in New Jersey, Delaware, and

Maryland had remained unchanged since May 2013. Mr. Ellinwood further testified that the over-order price in the former Mideast Milk Marketing Agency area on all milk was similar to the Board-mandated over-order premium and fuel adjuster.

7. Michael Evanish testified on behalf of the Pennsylvania Farm Bureau as an expert in dairy farm accounting and business management and planning. Mr. Evanish testified that the over-order premium should be set at \$1.60/hundredweight for the first half of 2014.
8. Mr. Evanish is manager of MSC Business Services (“MSC”). Among the services provided by MSC are business analysis and business consultations, which include developing budgets and making cost of production projections. To provide clients with insight on the relative health of their dairy operations, MSC analyzes and calculates annual averages of cost and income for several categories of dairy farms. Mr. Evanish testified that the annual average costs of production incurred by MSC client farms in 2011 and 2012 were above costs incurred in 2010. He also testified that for those farms milking fewer than 250 cows, annual cost averages increased each year; farms milking more than 250 cows experienced a \$0.57 per hundredweight decrease in cost of production from 2011 to 2012, with the 2012 cost of production still \$2.93 per hundredweight higher than 2010.
9. 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 \$1.60 per hundredweight for six months.
10. Mr. Ebert testified that income over feed costs provided a good snapshot of the conditions on his farm. Mr. Ebert’s October 2013 income over feed costs, while 53% higher than in October 2012, was 2% higher than it was in October 2011. Mr. Ebert also testified that he did not experience the anticipated decrease in feed prices for the second half of 2013 until October, when the new crop was harvested. Mr. Ebert also described increased fuel and insurance costs on his farm from 2009 through 2013.
11. David DeSantis testified for Board Staff as an expert in milk cost accounting and regulation. Mr. DeSantis testified that if over-order premium hearings were held in April and October, they would occur during times when there are typically fewer demands on the Board’s schedule.
12. The Board finds that the over-order premium should be \$1.60 for January 1, 2014, through September 30, 2014.

We rely on the credible and persuasive testimony of Mr. Ellinwood, Mr. Evanish, and Mr. Ebert in establishing the over-order premium level at \$1.60 per hundredweight.

In finding that the over-order premium should run through September 30, 2014, we agree with the testimony of Mr. Ellinwood and Mr. DeSantis that it would be preferable to hold over-order premium hearings at times to avoid holidays and vacations. We intend by shifting the over-order premium hearing timing to provide interested parties and Board Staff the opportunity to more thoroughly prepare for not only the over-order premium hearings, but cost replacement hearings as well.

By establishing a nine month duration for this over-order premium order, we do not intend to signal any intention to establish similar durations for any future over-order premium orders. Future over-order premium levels and durations will be established based on evidence presented at future hearings.

CONCLUSIONS OF LAW

1. The December 4, 2013, 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

Luke F. Brubaker, Chairman

Richard Kriebel, Member

Lynda J. Bowman, Consumer Member

Date: December 18, 2013

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