

Commonwealth of Pennsylvania

Milk Marketing Board

Testimony

Pennsylvania State Grange

Wednesday, May 16, 2018

Hearing in Response to Petition by
Pennsylvania Department of Agriculture

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To the Members of the Board:

Thank you very much for convening this hearing and allowing the Pennsylvania State Grange to testify. Today, I would like to do two things. First, I want to tell you about my family farm and our dairy operation. This is to emphasize the point that you already know. Whatever the PA Milk Marketing Board concludes will have a real-world impact on family farms such as mine.

The second thing in my testimony is to discuss a tax credit idea from the Commonwealth of Massachusetts that may have some bearing on what we could do here in Pennsylvania.

Family Farm Background

My name is Matt Espenshade. I am a seventh generation dairy farmer from Lancaster County. The farm has been owned and operated by my family since 1867. I am married with two sons, ages twelve and nine. My father and I have no hired help in the day to day activities on the farm. We milk 75 cows and farm 260 acres, raising our own forages and replacement heifers. In addition, I serve as Master (President) of Elizabethtown Area Grange #2076, one of more than 240 local granges located across Pennsylvania. The Pennsylvania State Grange, whom I represent today, has been an advocate for farmers and rural families since 1873.

For more than 25 years, our farm has been a member of Mount Joy Farmers' Cooperative. During that time, I've grown to appreciate the benefits of being part of a cooperative. Our board of directors is elected by the membership, and comprised of member producers. They have a tremendous responsibility in managing the milk markets of more than 300 member farms. In challenging times, our co-op has the flexibility to move milk into non-bottling facilities, yielding products with an extended shelf life. While it may prevent our farm from receiving the full value of the over-order premium, I am willing to trade that for the overall stability that this option ensures us.

By banding together, we have the opportunity to share the premium in the form of bonuses for volume or low somatic cell counts, which are significant incentives. Dairy farms are as unique as their owners. In the marketing of our milk, each of us is faced with our own challenges and opportunities, our own risks and rewards.

Dairy farms across the country are feeling the cumulative financial strain of years of low milk prices and declining sales of Class I product. Many producers are in the same position as our century farm, borrowing against the equity of their farms just to get by. Trying to find an all-encompassing universal solution is impossible, so states have been left trying to find new ways to save their financially stressed dairy farmers. Of course, the 'magic wand' would be greater consumption of fluid milk and some, like the Pennsylvania State Grange and U.S. Rep. Glenn 'G.T.' Thompson, want to see nutritious whole milk offered to students in schools. This daily exposure would remind young people of the important benefits milk brings to health and vitality. The state of the dairy industry for the past few years has been discouraging, and at times recent news has been disheartening. I believe real change won't happen until consumers "rediscover" the dairy aisle, and just how satisfying dairy treats or a glass of milk with dinner can be. However, until we get there, we need to look at more immediate solutions.

Massachusetts Tax Credit

Discussions with Grange members from across the country about the dairy industry crisis led me to an interesting measure adopted by the state of Massachusetts, which the Massachusetts State Grange supported. Respectfully, I would like to share a few of the points found in this state regulation.

Instituted in 2008 as a component of the Dairy Farm Preservation Act, the “Dairy Farmer Tax Credit Program”, was designed to offer emergency relief during cyclical downturns. With \$44 million in sales in 2012, the dairy industry is responsible for 9% of that state’s agricultural output.

The purpose of this measure is to provide an additional safety net that supports Massachusetts dairy farms. Through this act, the state helps to offset declining profit margins by providing a refundable tax credit to eligible dairy farms. This state tax credit is based on the volume of milk sold by the farm, regardless of its class or final destination. All farms are reimbursed on a percentage basis, and total expenditure by the state has an annual cap.

For their program, the “trigger price” is calculated monthly by the University of Massachusetts. It takes into consideration factors such as total operating costs (all feed costs, interest, other operating costs, etc.), cost of hired labor, and opportunity cost of unpaid labor. If the price dairy farmers are paid falls below the established “trigger price” the farm may receive a tax credit.

In Massachusetts, dairy farmers sign up for the program, authorizing a third party that purchased the milk to release production data or monthly production reports to the state. These figures can be verified through audits of milk production revenues or by records released by, but not limited to, milk marketing cooperatives. Participation is not mandatory if a farmer feels it is not worth their time or have other objections.

In late January, the state Department of Revenue is provided a list of taxpayers that may claim the tax credit for the previous year, and the amount of credit entitled. The names have been certified that they meet all the eligibility requirements.

There is another level of depth where the plan explains required calculations such as trigger percentage and dairy farmer tax credit rate, but I won’t get into that right now. The regulation is attached at the end of my written statement for your consideration at a later time.

An interesting point from the Massachusetts regulation is that if the tax liability is greater than the tax credit, the amount the farmer owes in taxes is reduced by the amount of the tax credit.

If the tax liability is less than the tax credit, the amount the farmer owes is reduced to zero, and the remaining difference is refunded to the farmer.

If the tax liability is zero to start, the entire tax credit is refunded directly to the farmer.

If Pennsylvania were to consider a similar resolution, it is important to remember several points. First of all, this legislative measure would not be continually paying out credits. It would be in place for the “tough times”, like we are experiencing now. Nor would any farmer have to pay a “premium” for this coverage or involvement in the program.

In challenging times, this tax credit would not be a financial windfall. This will not solve all the problems. However, if it could cover just one outstanding bill, a couple tons of purchased feed, or an unexpected repair bill, that could make a significant impact in a particular month’s bottom line for each Pennsylvania dairy farm.

I understand that the action required to implement a PA Tax Code change such as this would be beyond the powers of the Pennsylvania Milk Marketing Board and would need action by the General Assembly. However, in a forum such as what we have here today, it is an idea, and ideas tend to lead to even better ideas.

Perhaps the PA Milk Marketing Board could recommend that the Center for Rural Pennsylvania or the Pennsylvania Budget & Finance Committee do a study of other such innovative programs being utilized by other states to help struggling dairy farms like those in Pennsylvania.

It is my hope that somewhere within this submission by the Pennsylvania State Grange and the other presenters today, we can find some hope to build on.

Respectfully submitted,

Matthew D. Espenshade

<https://www.mass.gov/service-details/dairy-farmer-tax-credit>

MASSACHUSETTS DAIRY FARMER TAX CREDIT PROGRAM

(CMR: Code of Massachusetts Regulations)

330 CMR: DEPARTMENT OF AGRICULTURAL RESOURCES

330 CMR 29.00: DAIRY FARMER TAX CREDIT PROGRAM

Section

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29.01: Scope and Purpose

330 CMR 29.00 implements M.G.L. c. 62, §§ 6(o)(1) through (4) and c. 63 § 38Z, which establishes a tax credit to dairy farmers to offset the cyclical downturns in milk prices paid to dairy farmers.

The purpose of 330 CMR 29.00 is to provide a safety net program that supports Massachusetts dairy farms through its provision of revenue stability to dairy farmers when either milk prices paid to farmers fall or costs of production rise relative to one another. An Eligible Taxpayer who holds a Certificate of Registration shall be eligible to receive a refundable state income tax credit based on the amount of milk produced and sold, such that if the price paid to dairy farmers drops below the Trigger Price, the taxpayer may receive the tax credit. The total annual value of the tax credit to all Eligible Taxpayers shall not exceed \$4.0 million.

29.02: Definitions

As used in 330 CMR 29.00:

Annual Milk Production. The sum of the monthly milk production reported by an Eligible Taxpayer for the calendar year.

Certificate of Registration. The certificate of registration issued by the Commissioner pursuant to M.G.L. c. 94, § 16A.

Commissioner. The Commissioner of the Department of Agricultural Resources.

Dairy Farmer Tax Credit. An amount calculated by multiplying the Dairy Farmer Tax Credit Rate by the number of hundredweights of the Annual Milk Production of an Eligible Taxpayer as reported under 330 CMR 29.03.

Dairy Farmer Tax Credit Rate. A value calculated by dividing the Total Tax Credit by the number of hundredweights of milk in the Total Milk Production.

Eligible Taxpayer. A taxpayer or domestic or foreign corporation that holds a Certificate of Registration.

Farm Price. The farm price of milk as calculated in 330 CMR 29.05(3).

Northeast Federal Milk Marketing Order. 7 CFR 1001.

Northeast Marketing Area. The area established by the Northeast Federal Milk Marketing Order pursuant to 7 CFR 1001 which is the United States Federal Milk Marketing Order for the applicable market as required by M.G.L. c. 62, § 6(o)(1).

Program. The Dairy Farmer Tax Credit Program.

Statistical Uniform Price. The Statistical Uniform Price at 3.5% Butterfat as announced monthly by the Northeast Federal Milk Marketing Order for the Northeast Marketing Area.

330 CMR: DEPARTMENT OF AGRICULTURAL RESOURCES

29.02: continued

Total Cumulative Value of Credits. The total cumulative value of authorized credits as provided in M.G.L. c. 62, § 6(o)(3) and c. 63, § 38Z.

Total Milk Production. The sum of all the Annual Milk Production of all Eligible Taxpayers.

Total Tax Credit. A value obtained by multiplying the Trigger Percent by the Total Cumulative Value of Credits, not to exceed \$4 million.

Trigger Percent. The number of months for which the Farm Price is less than or equal to the Trigger Price divided by 12.

Trigger Price. The price established by the Commissioner for the purpose of calculating the tax credit pursuant to 330 CMR 29.05(2).

UMass. The University of Massachusetts.

29.03: Dairy Farmer Eligibility

(1) Any Eligible Taxpayer wishing to participate in the Program shall complete and submit a disclosure statement on a form provided by Commissioner, to the Commissioner, no later than January 15th of the following tax year. The disclosure statement shall include, at a minimum, the following information:

- (a) taxpayer identification information;
- (b) shareholder information, if applicable; and
- (c) a statement authorizing the Commissioner to obtain milk production information from a third party that purchased milk from the Eligible Taxpayer, which shall be deemed to authorize the release of production data required for the administration of this Program, or a monthly milk production report, if not submitted by a third party on behalf of the Eligible Taxpayer.

(2) The Commissioner may request additional information as needed to administer the Program.

(3) The Commissioner may verify monthly milk production reports either by auditing an Eligible Taxpayer's records of milk production revenues or by acquiring records from third parties that have collected such data including records released by the Northeast Federal Milk Marketing Order or milk marketing cooperatives.

(4) Resolving Discrepancy. If the Commissioner identifies a discrepancy in monthly milk production reports, the Eligible Taxpayer shall be notified and shall have five business days from receipt of notification to submit to the Commissioner sufficient information to validate the production record. Upon receipt of such information, the Commissioner shall then have five business days to notify the Eligible Taxpayer of its determination as to whether to amend the Eligible Taxpayer's total production.

29.04: Certification of Eligibility and Tax Credit

By January 31st of each year, the Commissioner shall provide the Department of Revenue a list of Eligible Taxpayers that may claim the Dairy Farmer Tax Credit under 330 CMR 29.00. The list shall contain the taxpayer's name, tax identification number, Annual Milk Production, and the amount of the Total Tax Credit to which the Eligible Taxpayer is entitled. The Commissioner shall certify that the Eligible Taxpayers listed have met the eligibility requirements and that, to the best of the Commissioner's knowledge, the milk production reports

submitted by an Eligible Taxpayer are accurate. A copy of the certification shall be sent to the Eligible Taxpayer.

29.05: Tax Credit Calculations

(1) On or before January 31st of the following applicable tax year, the Commissioner shall determine the following values:

330 CMR: DEPARTMENT OF AGRICULTURAL RESOURCES

29.07: Determination of Error and Recalculation of Tax Credit

(1) Petition to Determine Error. On or before October 1 of any year, a written petition, signed under the penalties of perjury, may be filed with the Commissioner requesting that the Board of Food and Agriculture determine that an error has been made in calculating the Trigger Price, the reporting or collecting data used in the calculation of the Trigger Price, or in the amount of the Dairy Farmer Tax Credit, for the previous year. The petition shall specifically identify the errors believed to have been made. To be considered, the petition must be signed by 25% of the Eligible Taxpayers.

(2) Transmittal of Petition to Board of Food and Agriculture. The Commissioner shall first verify the form and content of the petition and that it has been signed by the required number of Eligible Taxpayers. Upon verification, the Commissioner shall, within ten business days of receipt of the petition, transmit a copy of the petition along with his verification to the Board of Food and Agriculture.

(3) Determination by the Board of Food and Agriculture. Within 30 days of receipt of the petition, the Board of Food and Agriculture shall determine whether an error has been made. In making such a determination, the Board may, after notice, hold a public hearing regarding the specific error or errors identified in the petition. If the Board decides to hold a public hearing, the hearing must be held not less than seven days or more than 21 days from the date of notice.

(4) Recalculation. Within ten business days of a determination by the Board of Food and Agriculture that an error has been made, the Commissioner shall recalculate, with or without amendment, the Trigger Price or Dairy Farmer Tax Credit by any method which, in his opinion, is sufficient to address the error.

(5) Notification of Department of Revenue and Taxpayers. The Commissioner shall transmit to the Commissioner of the Department of Revenue a list of Eligible Taxpayers that may claim the recalculated Dairy Farmer Tax Credit as soon as practicable. The list shall contain the taxpayer's name, tax identification number, Annual Milk Production, and the amount of the Dairy Farmer Tax Credit to which the Eligible Taxpayer is entitled. The Commissioner shall also transmit to the Eligible Taxpayer a calculation showing any revised tax credit amount to which they are entitled.

REGULATORY AUTHORITY

330 CMR 29.00: M.G.L. c. 62, §§ 6(o)(1) through (4); c. 63, § 38Z and c. 94, § 16A.

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