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Milk Marketing Board
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Official General
Order No. A-1005

Posted:
Effective

March 19, 2020
April 1, 2020

OVER-ORDER PREMIUM

NOW, this 19th day of March 2020, 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 April 1, 2020 and will expire at 12:00 midnight on September 30, 2020.

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 \$1.00 per hundredweight effective 12:01 a.m. on April 1, 2020, through midnight on September 30, 2020.

(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.

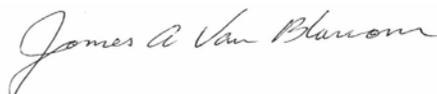
SECTION III

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

PENNSYLVANIA MILK MARKETING BOARD



Robert N. Barley, Chairman



James A. Van Blarcom, Member



Carol A. Hardbarger, PhD, Consumer Member

Date: March 19, 2020

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
March 4, 2020**

FINDINGS OF FACT

1. On March 4, 2020, 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 50 Pennsylvania Bulletin 622 on January 25, 2020, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1569, dated January 9, 2020.
3. Dean Ellinwood testified on behalf of the Pennsylvania Association of Dairy Cooperatives (“PADC”) as an expert in raw milk marketing, procurement from producers, and sales to handlers. PADC consists of Dairy Farmers of America, Inc., Lanco Dairy Farms Co-op, Inc., Land O’Lakes, Inc., and Maryland & Virginia Milk Producers’ Cooperative Association, Inc. Approximately 3,500 Pennsylvania dairy farmers market their milk through PADC members. Mr. Ellinwood recommended that the over-order premium be set at \$1.00 per hundredweight for the period April 1, 2020, through September 30, 2020.
4. Mr. Ellinwood testified that Pennsylvania farm milk production declined 572 million pounds in 2019, while New York milk production increased 235 million pounds and Vermont milk production increased 14 million pounds. He noted, though, that milk production per cow had increased 50 pounds in Pennsylvania between December 2018 and December 2019. Mr. Ellinwood also testified that the number of Pennsylvania farms marketed by PADC declined from 3,931 as of December 31, 2018, to 3,494 as of December 31, 2019. Mr. Ellinwood further testified that the number of dairy farms overall in Pennsylvania declined in 2019 and that the farm losses were disproportionately among smaller farms.
5. Mr. Ellinwood’s testimony regarding Federal Order 1 Class III and Class IV prices indicated that, based on Chicago Mercantile Exchange futures prices as of February 28, 2020, first half 2020 milk prices may not be as high as earlier anticipated. Mr. Ellinwood testified that Class I milk sales in Federal Order 1 and in Pennsylvania continue to decline.
6. Mr. Ellinwood testified that the market directly to Pennsylvania’s west increased its premium \$0.25 per hundredweight on April 1, 2019, when the Pennsylvania over-order premium was increased \$0.25 per hundredweight. He also testified that the Dairy Cooperative Marketing Agency in the southeast United States market was increasing its Class I premium to \$1.10 per hundredweight effective April 1, 2020.

7. Michael Volinskie testified on behalf of Pennsylvania Farm Bureau as an expert in farm accounting and farm and dairy business analysis. Mr. Volinskie is manager of MSC Business Services (“MSC”). MSC provides services to farmers to assist them economically manage their farm operations, including business analysis and benchmarking. As part of these services, MSC provides historical cost of production figures and projections. Mr. Volinskie recommended setting the over-order premium at \$1.00 per hundredweight for six months.
8. Mr. Volinskie’s testimony for this hearing, with the exception of his conclusion, was the same as his testimony at the September 4, 2019, hearing. Based on Mr. Volinskie’s testimony, the Board made the following findings of fact in Official General Order A-1003, which we adopt for this order:
 - a. Mr. Volinskie testified that during the period 2011 through 2018, MSC-client dairy farms experienced appreciable annual incomes from dairy production in only three of those eight years. Mr. Volinskie testified that a “dismal financial trend” for MSC-client dairy farms that began in 2015 and 2016 continued in a “very acute way” in 2018 with average losses worse than in 2016. He observed that 2016 was the year that many financial experts highlight as being extremely bad for dairy farmers during the recent economic downturn. 2018 was the fourth straight year that average MSC-client dairy farms failed to show an annual profit. Mr. Volinskie testified that in 2018 MSC-client dairy farms experienced both lower prices and higher costs than in 2016. Mr. Volinskie testified that considering 2018’s data demonstrated a worsened financial situation for many Pennsylvania dairy farmers and lower optimism for their financial future in dairy production.
 - b. Mr. Volinskie testified that for the period 2011 through 2018 the average yearly net margin for MSC-client dairy farms was \$1,424.00. He testified that business operators in other industries would widely reject those annual returns in operation as successful and that no family today could sustain any meaningful family livelihood from such meager returns. Mr. Volinskie further testified that continuation of such meager returns has a depressing impact on farmers’ future business decisions and enthusiasm to continue making investments in their business. Without enthusiasm for the future, owners are less likely to take on the additional financial risk necessary to modernize their operations and are less likely to promote dairy farming as a career to the next generation, placing the future of dairy farming in Pennsylvania in greater jeopardy.
9. Mr. Volinskie testified that the persistent and dismal financial experiences incurred by Pennsylvania dairy farmers throughout 2015 through 2017 had continued and worsened during 2018. MSC is beginning to receive and analyze 2019 client financial data. Mr. Volinskie testified that, despite price recovery payments and higher market prices in 2019, he did not expect average gross income for MSC-client farms in 2019 to be above the 8-year average. Mr. Volinskie also testified that Pennsylvania dairy farms continue to face critical financial challenges which imminently threaten their continued operation.

10. David Graybill testified on behalf of Pennsylvania Farm Bureau. Mr. Graybill is Chairman of Pennsylvania Farm Bureau's Dairy Committee and serves on the Pennsylvania Farm Bureau's Board of Directors. Mr. Graybill operates Red Sunset Farms in Mifflintown. Red Sunset Farms currently milks 64 registered Holsteins and raises around 75 replacement heifers. Mr. Graybill produces corn, soybeans, hay, and small grains, approximately 64 percent of which feed his dairy cattle, with the rest sold on the open market. Red Sunset Farms is a sole proprietorship, with one full time and two part time employees. Mr. Graybill markets his milk to Maryland and Virginia Milk Producers Cooperative, with about two-thirds of his farm's 2019 gross income generated by his milk check. Mr. Graybill recommended that the over-order premium be set at \$1.00 per hundredweight for six months.
11. Mr. Graybill places a high priority on managing an environmentally friendly operation and is constantly adding and improving conservation practices to reduce his farm's environmental footprint. He has served as Chairman of Pennsylvania Farm Bureau's Natural and Environmental Resources Committee, serves on the Chesapeake Bay Partnership's Agriculture Workgroup, and served on the Agriculture Workgroup to the Steering Committee responsible for developing Pennsylvania's Chesapeake Bay Watershed Implementation Plan for Phase 3.
12. Mr. Graybill is a client of MSC Business Services and fully uses the tax accounting and preparation, business accounting, and business analysis services it provides. Mr. Graybill testified that 2018 was the most recent year that his farm's income and cost was analyzed and compared through MSC's Dairy Profitability Comparison. Red Sunset Farms' total income from all sources in 2018 was substantially higher than comparably sized farms and the top 10 percent. Mr. Graybill testified, though, that total income from milk production was substantially under his farm's production and administrative costs. He also testified that annual gross revenue for 2018 was the lowest generated by his farm during the 2015 through 2019 period, with the farm's total income from all sources at a breakeven level.
13. Mr. Graybill testified that the price he received for milk in 2019 was \$2.28 per hundredweight higher than what he received in 2018. He testified that the increased milk revenues, income from crop sales, crop insurance payments, and payments received from USDA's Market Facilitation and Margin Protection Programs helped his farm achieve modest profit in 2019.
14. Mr. Graybill testified that due to his farm's smaller size he had to learn to become very efficient and during the tough economic times of 2016 through 2018 had to be even more efficient. Among the efficiency adjustments he implemented, Mr. Graybill testified that buying minerals monthly, rather than in bulk, has reduced the cost of purchased minerals. He also tested different silage varieties of corn, changed the silage he fed his cows, and saw an increase in fat and components, increasing income from milk production.
15. Mr. Graybill testified that he regularly replaces cows when their production starts to lag. This allows him to send healthy, high weight cows to market, resulting in a 40 percent

cull rate with livestock sales as an income stream. Mr. Graybill prefers to sell cows in their third lactation when they are at 1,600 pounds for maximum sales value.

16. Mr. Graybill testified that the last few years have been challenging for the dairy industry, with depressed prices, economic effects of trade wars, and the weather all negatively impacting operations. He testified that if the current trend of increased milk prices doesn't continue or becomes sharply lower, the number of Pennsylvania dairy farms leaving dairying would increase beyond the 370 that ceased operating in 2018. Mr. Graybill also testified that increased federal regulation will increase cost of production, particularly for farms in the Chesapeake Bay Watershed.
17. Mr. Graybill did testify that he is starting to see some signs of hope within the dairy industry and on his farm. Recent increases in his income over feed costs and steady costs for purchased feed have allowed him to lift some of his "living lean" measures. However, Mr. Graybill also testified that the increase in milk checks in 2019 was probably not enough to allow many Pennsylvania farmers to recover from the financial losses they've suffered since 2015. He testified that Pennsylvania Farm Bureau believed continuing the over-order premium at \$1.00 per hundredweight would continue to be helpful to dairy farmers.
18. Matt Espenshade testified on behalf of the Pennsylvania State Grange. Mr. Espenshade is a seventh-generation dairy farmer from Lancaster County milking 70 cows and farming 260 acres. Mr. Espenshade raises his own forages and replacement heifers. His farm has been owned and operated by his family since 1867. Mr. Espenshade is master of Elizabethtown Area Grange. He is also a member of Mount Joy Farmers Co-Op ("Mount Joy"). Mr. Espenshade recommended that the over-order premium be set at \$1.00 per hundredweight.
19. Mr. Espenshade testified that the strengthening of milk prices since the last over-order premium hearing was a welcome and long overdue development for Pennsylvania's dairy farms. He testified that the milk price he received in January 2020 was \$20.07 per hundredweight, exceeding \$20 per hundredweight for the first time since January 2015. Mr. Espenshade also testified that his average 2019 milk price was \$17.05 per hundredweight and his 2019 income over feed costs averaged \$8.01 per hundredweight. He contrasted the 2019 results with 2018, which had the lowest average monthly milk price of the three prior years at \$14.91 per hundredweight.
20. Mr. Espenshade testified that the recent positive developments in milk price were welcome but will have come too late for many Pennsylvania dairy farmers. He testified that for the first time in 13 years, annual milk shipments by Mount Joy had decreased in 2019. The Cooperative has also seen five consecutive years of decreased active producers. More than half of Mount Joy's membership is comprised of farms with 65 or fewer cows.
21. Mr. Espenshade testified that Mount Joy remains challenged finding markets for its milk, with members assessed a Market Adjustment fee since September 2014. That fee

is currently \$0.69 per hundredweight, which on his farm equates to almost \$700 lost revenue for January 2020.

22. Mr. Espenshade testified that the over-order premium does not just support Pennsylvania farmers, but also supports the businesses on which those farmers depend. He testified that the over-order premium will not spend much time in the average farmer's pocket but will instead help pay down debt and be used in the local community.
23. Arden Tewksbury testified on behalf of Progressive Agriculture Organization and the Dairy Subcommittee of the National Family Farm Coalition; he is the manager of Progressive Agriculture Organization and the Chairman of the Dairy Subcommittee. Mr. Tewksbury has been a School Director of the Elk Lake School District for 59 years and was recently elected to the Board of Directors of the Northeastern Educational Intermediate Unit. Mr. Tewksbury testified that one of the benefits of the Intermediate Unit office was being able to obtain the support of the 21 schools in the Intermediate Unit to officially support returning whole milk to the school lunch program. Mr. Tewksbury recommended that the over-order premium be set at \$1.00 per hundredweight.
24. Mr. Tewksbury testified that Readington Farms in New Jersey had lowered its premium from \$1.00 per hundredweight to \$0.75 per hundredweight. He also testified that, according to USDA figures, the average Pennsylvania dairy farmer receives a price nearly \$4.00 per hundredweight below the cost of production.
25. The Board finds that the over-order premium should be set at \$1.00 per hundredweight from April 1, 2020, through September 30, 2020.

In so finding, the Board first notes that every witness supported establishing the premium at \$1.00 per hundredweight for six months.

We find all of the testimony persuasive and credible. The testimony raised several areas of concern that support a \$1.00 per hundredweight over-order premium. These concerns include, as noted by Mr. Ellinwood, Pennsylvania's decreasing milk production, particularly in comparison to increasing milk production in New York.

The Board is also persuaded by Mr. Volinskie's testimony that Pennsylvania dairy farms continue to face critical financial challenges, and that despite generally better financial conditions in 2019 the average gross income for MSC-client dairy farms will probably not be above the 8-year average. Mr. Graybill's testimony was of a similar nature, with him testifying that the increases in milk checks in 2019 were probably not enough to allow many Pennsylvania dairy farmers to recover from the financial losses they've suffered since 2015. Mr. Espenshade's testimony also noted that recent positive milk price developments will have come too late for many Pennsylvania dairy farmers.

26. The Board finds, as it was put by Mr. Graybill, that continuing the over-order premium at \$1.00 per hundredweight would be helpful to Pennsylvania dairy farmers. Based on

the factors discussed in Finding of Fact 25, we find that Pennsylvania dairy farmers continue to need the financial assistance provided by the over-order premium.

CONCLUSIONS OF LAW

1. The March 4, 2020, 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



Robert N. Barley, Chairman



James A. Van Blarcom, Member



Carol A. Hardbarger, PhD, Consumer Member

Date: March 19, 2020

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