



COMMONWEALTH OF PENNSYLVANIA
MILK MARKETING BOARD

Official General
Order No. A-873

Posted: November 18, 1992
Effective: December 1, 1992

NOW, this 18th day of November, 1992, the Commonwealth of Pennsylvania, Milk Marketing Board hereby enters the following Official General Order to be designated as Official General Order No. A-873:

SECTION I

The Findings of Fact and Conclusions of Law attached as Exhibit A hereto are incorporated herein as though more fully set forth below.

SECTION II

Pennsylvania Milk Marketing Board Official General Order A-863 is amended by making the following deletions and insertions:

DELETE

Section B, Provision 1, Paragraph (b)

INSERT

Section B, Provision 1, Paragraphs (b), (c), and (d)

(b) CLASS II MILK. Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, and any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil), that resembles a fluid cream product or eggnog, except as otherwise provided in Paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in Paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products or filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and their by-products (whey);

(ii) Milkshakes and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in Paragraph (c)(1) (iv) of this section;

(iv) Plastic cream, frozen cream, anhydrous milkfat, aerated cream, sour cream and sour half and half, and sour cream mixtures containing nonmilk items;

(v) Custards, puddings, pancake mixes and buttermilk biscuit mixes, yogurt and any other semi-solid product resembling a Class II product and containing less than 10 percent butterfat;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers; and

(vii) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public.

(c) CLASS III MILK. Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese) and its by-products (whey);

(ii) Butter;

(iii) Any milk product in dry form, except nonfat dry milk powder;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package;

(vi) Nonfat dry milk powder except when allocated to Class III-A under Paragraph (d); and

(vii) Any product not otherwise specified in this section, except nonfat dry milk powder.

(2) In inventory at the end of the month of fluid milk products in bulk form and products specified in Paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in Paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in Paragraph (b)(1) of this section that are dumped by a handler if the Federal Market Administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product or in any product specified in Paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to the Middle Atlantic Marketing Order (Federal Order 4), and

(6) In shrinkage assigned pursuant to the Middle Atlantic Marketing Order (Federal Order 4).

(d) Class III-A Milk. Class III-A milk shall be all skim milk and butterfat used to produce nonfat dry milk powder and which is designated as Class III-A under Federal Law and applicable Federal Regulations.

DELETE

Section C, Provision 1, Paragraph (b)

INSERT

Section C, Provision 1, Paragraphs (b), (c), and (d)

(b) CLASS II MILK - The Class II price for each month shall be the Class II price established under Federal Law and applicable Federal Regulations for the Middle Atlantic Marketing Order (Federal Order No. 4) as announced and published by the Federal authorities responsible.

(c) CLASS III MILK - The Class III price for each month shall be the Class III price established under Federal Law and applicable Federal Regulations for the Middle Atlantic Marketing Order (Federal Order No. 4) as announced and published by the Federal authorities responsible.

(d) CLASS III-A MILK - The Class III-A price for each month shall be the Class III-A price established under Federal Law and the Federal Regulations applicable to the milk being priced.

SECTION III

Pennsylvania Milk Marketing Board Official General Order A-864 is amended by making the following deletions and insertions:

DELETE

Section B, Provision 1, Paragraph (b) and (c)

INSERT

Section B, Provision 1, Paragraphs (b), (c), and (d)

(b) CLASS II MILK. Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, and any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil), that resembles a fluid cream product or eggnog, except as otherwise provided in Paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in Paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products or filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to Produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and their by-products (whey);

(ii) Milkshakes and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in Paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, anhydrous milkfat, aerated cream, sour cream and sour half and half, and sour cream mixtures containing nonmilk items;

(v) Custards, puddings, pancake mixes and buttermilk biscuit mixes, yogurt and any other semi-solid product resembling a Class II product and containing less than 10 percent butterfat;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers; and

(vii) Candy, soup, bakery products, and other prepared foods which are processed for general distribution to the public.

(c) CLASS III MILK. Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese) and its by-products (whey);

(ii) Butter;

(iii) Any milk product in dry form, except nonfat dry milk powder;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package;

(vi) Nonfat dry milk powder except when allocated to Class III-A under Paragraph (d); and

(vii) Any product not otherwise specified in this section except nonfat dry milk powder.

(2) In inventory at the end of the month of fluid milk products in bulk form and products specified in Paragraphs (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in Paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in Paragraph (b)(1) of this section that are dumped by a handler if the Federal Market Administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product or in any product specified in Paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to the Middle Atlantic Marketing Order (Federal Order 4), and

(6) In shrinkage assigned pursuant to the Middle Atlantic Marketing Order (Federal Order 4).

(d) CLASS III-A MILK. Class III-A milk shall be all skim milk and butterfat used to produce nonfat dry milk powder and which is designated as Class III-A under Federal Law and applicable Federal Regulations.

DELETE

Section C, Provision 1, Paragraphs (b) and (c)

INSERT

Section C, Provision 1, Paragraphs (b), (c), and (d)

(b) CLASS II MILK. - The Class II price for each month shall be the Class II price established under Federal Law and applicable Federal Regulations for the Middle Atlantic Marketing Order (Federal Order No. 4) as announced and published by the Federal authorities responsible.

(c) CLASS III MILK. - The Class III price for each month shall be the Class III price established under Federal Law and applicable Federal Regulations for the Middle Atlantic Marketing Order (Federal Order No. 4) as announced and published by the Federal authorities responsible.

(d) CLASS III-A MILK. - The Class III-A price for each month shall be the Class III-A price established under Federal Law and the Federal Regulations applicable to the milk being priced.

SECTION IV

Pennsylvania Milk Marketing Board Official General Order A-854A is amended by making the following deletions and insertions:

DELETE

Section B, Provision 1, Paragraph (b) and (c)

INSERT

Section B, Provision 1, Paragraphs (b), (c), and (d)

(b) CLASS II MILK. Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, and any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil), that resembles a fluid cream product or eggnog, except as otherwise provided in Paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in Paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products or filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and their by-products (whey);

(ii) Milkshakes and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in Paragraph (c)(1) (iv) of this section;

(iv) Plastic cream, frozen cream, anhydrous milk-fat, aerated cream, sour cream and sour half and half, and sour cream mixtures containing nonmilk items;

(v) Custards, puddings, pancake mixes and buttermilk biscuit mixes, yogurt and any other semi-solid product resembling a Class II product and containing less than 10 percent butterfat;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers; and

(vii) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public.

(c) CLASS III MILK. Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese) and its by-products (whey);

(ii) Butter;

(iii) Any milk product in dry form, except nonfat dry milk powder;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package;

(vi) Nonfat dry milk powder except when allocated to Class III-A under Paragraph (d); and

(vii) Any product not otherwise specified in this section except nonfat dry milk powder.

(2) In inventory at the end of the month of fluid milk products in bulk form and products specified in Paragraphs (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in Paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in Paragraph (b)(1) of this section that are dumped by a handler if the Federal Market Administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product or in any product specified in Paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to the New York-New Jersey Marketing Order (Federal Order 2), and

(6) In shrinkage assigned pursuant to the New York-New Jersey Marketing Order (Federal Order 2).

(d) CLASS III-A MILK. Class III-A milk shall be all skim milk and butterfat used to produce nonfat dry milk powder and which is designated as Class III-A under Federal Law and applicable Federal Regulations.

DELETE

Section C, Provision 1, Paragraph (b) and (c)

INSERT

Section C, Provision 1, Paragraphs (b), (c), and (d)

(b) CLASS II MILK. The Class II price for each month shall be the Class II price established under Federal Law and applicable Federal Regulations for the New York-New Jersey Marketing Order (Federal Order No. 2) as announced and published by the Federal authorities responsible.

(c) CLASS III MILK. The Class III price for each month shall be the Class III price established under Federal Law and applicable Federal Regulations for the New York-New Jersey Marketing Order (Federal Order No. 2) as announced and published by the Federal authorities responsible.

(d) CLASS III-A MILK. The Class III-A price for each month shall be the Class III-A price established under Federal Law and the Federal Regulations applicable to the milk being priced.

SECTION V

Pennsylvania Milk Marketing Board Official General Order A-858 is amended by making the following deletions and insertions:

DELETE

Section B, Provision 1, Paragraph (b) and (c)

INSERT

Section B, Provision 1, Paragraphs (b), (c), and (d)

(b) CLASS II MILK. Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, and any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil), that resembles a fluid cream product or eggnog, except as otherwise provided in Paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in Paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products or filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to Produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and their by-products (whey);

(ii) Milkshakes and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in Paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, anhydrous milkfat, aerated cream, sour cream and sour half and half, and sour cream mixtures containing nonmilk items;

(v) Custards, puddings, pancake mixes and buttermilk biscuit mixes, yogurt and any other semi-solid product resembling a Class II product and containing less than 10 percent butterfat;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers; and

(vii) Candy, soup, bakery products, and other prepared foods which are processed for general distribution to the public.

(c) CLASS III MILK. Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese) and its by-products (whey);

(ii) Butter;

(iii) Any milk product in dry form except nonfat dry milk powder;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package;

(vi) Nonfat dry milk powder except when allocated to Class III-A under Paragraph (d); and

(vii) Any product not otherwise specified in this section, except nonfat dry milk powder.

(2) In inventory at the end of the month of fluid milk products in bulk form and products specified in Paragraphs (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in Paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in Paragraph (b)(1) of this section that are dumped by a handler if the Federal Market Administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product or in any product specified in Paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to the Middle Atlantic Marketing Order (Federal Order 4), and

(6) In shrinkage assigned pursuant to the Middle Atlantic Marketing Order (Federal Order 4).

(d) CLASS III-A MILK. Class III-A milk shall be all skim milk and butterfat used to produce nonfat dry milk powder and which has been designated as Class III-A under Federal Law and applicable Federal Regulations.

DELETE

Section C, Provision 1, Paragraphs (b) and (c)

INSERT

Section C, Provision 1, Paragraphs (b), (c), and (d)

(b) CLASS II MILK. - The Class II price for each month shall be the Class II price established under Federal Law and applicable Federal Regulations for the Middle Atlantic Marketing Order (Federal Order No. 4) as announced and published by the Federal authorities responsible.

(c) CLASS III MILK. - The Class III price for each month shall be the Class III price established under Federal Law and applicable Federal Regulations for the Middle Atlantic Marketing Order (Federal Order No. 4) as announced and published by the Federal authorities responsible.

(d) CLASS III-A MILK. - The Class III-A price for each month shall be the Class III-A price established under Federal Law and the Federal Regulations applicable to the milk being priced.

FINDINGS OF FACT

1. On December 13, 1991, Notice of Hearing was provided by mailing a copy of Bulletin No. 1187 to the Pennsylvania Milk Marketing Board's mailing list of producers, milk dealers, and other interested persons. Notice also was published on December 28, 1991 in the Pennsylvania Bulletin, Volume 21, Page 6022. (NT.10)

2. On January 9, 1992, the Pennsylvania Milk Marketing Board conducted its hearing in this matter. (NT.1)

3. Class III-A milk is skim milk and butterfat used to produce non-fat dry milk powder. (NT.25)

4. Effective November 3, 1992, the provisions of the Middle Atlantic Marketing Area Milk Marketing Order (Federal Order No. 4) were amended to establish Class III-A pricing.

5. The Middle Atlantic Marketing Area Order recognizes Class III pricing.

6. The New York-New Jersey Marketing Area Order recognizes Class III pricing.

CONCLUSIONS OF LAW

1. The hearing was called pursuant to the provisions of the Milk Marketing Law.

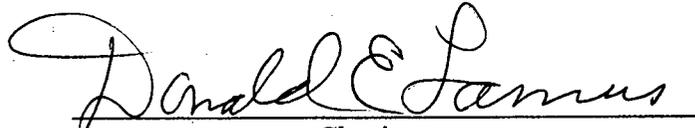
2. Notice of the Hearing was provided in compliance with the Milk Marketing Law and the Sunshine Act.

3. The Pennsylvania Milk Marketing Board has authority to establish the price to be paid to producers for milk.

4. The Pennsylvania Milk Marketing Board has authority to establish various classifications of milk.

5. This Official General Order A-873 shall be posted in the Offices of the Pennsylvania Milk Marketing Board on November 18, 1992, shall become effective on December 1, 1992, and shall remain posted in the Offices of the Pennsylvania Milk Marketing Board until December 9, 1992.

PENNSYLVANIA MILK MARKETING BOARD


Chairman


Member


Member