



**Commonwealth of Pennsylvania**  
Milk Marketing Board  
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Official General  
Order No. A-916

Posted: June 5, 2002  
Effective: July 1, 2002

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### **OVER-ORDER PREMIUM**

NOW, this 5<sup>th</sup> day of June 2002, 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 July 1, 2002, and will expire at 12:00 midnight on December 31, 2002.

#### **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 will include an over-order premium of \$1.65 per hundredweight until midnight on December 31, 2002.

(b) Milk dealers shall show by line item on their monthly statements to independent producers and cooperatives the specific amount of the over-order premium being paid.

**SECTION III**

All parts of Official General Order A-893 not inconsistent with this order shall continue in effect. This official general order supersedes Official General Order A-915.

PENNSYLVANIA MILK MARKETING BOARD

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Beverly R. Minor, Chairwoman

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Barbara A. Grumbine, Consumer Member

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Luke F. Brubaker, Member

Dated: June 5, 2002

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
OVER-ORDER PREMIUM HEARING  
MAY 1, 2002**

FINDINGS OF FACT

1. On May 1, 2002, the Pennsylvania Milk Marketing Board (Board) convened a hearing for all milk marketing areas to receive testimony and evidence concerning the continuation of the over-order premium that is scheduled to expire at midnight on June 30, 2002.
2. Notice of the hearing was published at 32 Pennsylvania Bulletin 1934 on April 13, 2002, and was mailed to those on the Board's interested parties list by means of Bulletin No. 1312. (PMMB Exhs. 1 and 2)
3. At the end of the hearing, a briefing schedule was set. Principal letter briefs were due on May 20, 2002, and reply letter briefs were due on May 22, 2002.
4. C. Arthur Zug, a dairy farmer from Juniata County, testified on behalf of the Pennsylvania State Grange ("Grange"). The Grange supports the continuation of the over-order premium of \$1.65 per hundredweight for a period of six months. (N.T. 15) Mr. Zug based his recommendation on the fact that milk production was down one-tenth of one percent from last year's production and the total number of cows has decreased over the last twelve months. Mr. Zug testified that this is a trend he doesn't see changing over the next six months nor does he see the current over-order premium flooding the dairy market with milk and Pennsylvania producers have not had difficulty selling their product. (N.T. 25) Mr. Zug further testified that some production costs have increased while others have decreased. He did note that fuel costs are rising again and, with spring planting, the fuel costs will have to be watched closely as to the effect it has on production costs. (N.T. 16)
5. Joel Rotz, on behalf of the Pennsylvania Farm Bureau as an expert in dairy economics, with an emphasis on process and cost of production, testified that for the Board to make a reasoned determination on a level of premium needed in response to the changes in the federal milk prices, the Board would need to look into the future. (N.T. 24) Mr. Rotz testified that the most reliable source for projecting milk prices under the current milk pricing system for the last six months of 2002 is developed by using current Class III and Class IV futures from the Chicago Mercantile Exchange. (N.T. 25) According to Mr. Rotz's testimony, the monthly projected prices would indicate that the average price paid to Pennsylvania producers for the last six months of 2002 will be about \$14.03 per hundredweight. (N.T. 25-26, PFB Exhibit 1)
6. Mr. Rotz further testified that the Special Dairy Report published by the Pennsylvania Agricultural Statistics Service (PASS) for the first quarter of 2002 estimates that the Pennsylvania producers' average cost of production for the twelve month period ending March 2002 was \$14.10 per hundredweight of milk and Mr. Rotz sees no reason that the production cost will be lower in the near future. (N.T. 26, PFB Exhibit 3) Based on

- this, Mr. Rotz noted that the projected margin for the average Pennsylvania producer for the last six months of 2002 will be a loss of seven cents per hundredweight. (N.T. 26-27)
7. Mr. Rotz testified that the Pennsylvania Farm Bureau recommends an over-order premium of \$1.65 per hundredweight for a six month period. This recommendation is based on a more complete picture of potential future price needs which would include the PASS cost of \$14.10, \$.70 for management, \$1.85 for cost of interest on equity, and a reasonable profit of \$.49 which would give a total price need of \$17.14. The average Pennsylvania dairy farmer would experience a shortfall of \$3.11 for every hundredweight of milk produced. (N.T. 27-28)
  8. Mr. Rotz further testified that Pennsylvania milk production, as well as cow numbers, is down. (N.T. 28-29)
  9. In response to a question on cross-examination, Mr. Rotz testified that there can still be an over-order premium in addition to payments provided through the federal farm bill and it would have no negative effect on the dairy market. (N.T. 36) Mr. Rotz further testified that the dairy farmers would probably not see this federal money until October or November 2002. (N.T. 37)
  10. Edward Gallagher, an expert in dairy economics and milk marketing, testified on behalf of the Northeast Milk Marketing Agency (NEMMA) which consists of DairyLea, Dairy Farmers of America's Northeast Council, Dairy Marketing Services, Advantage Dairy Group, Land O'Lakes, and Maryland/Virginia Cooperative, that the current over-order premium of \$1.65 should be maintained by the Board for the last six months of 2002. (N.T. 61)
  11. Mr. Gallagher testified that, unlike other Northeast states where 2002 production increased, Pennsylvania has not shown signs of rebounding in Pennsylvania milk produced as well as decreases in cow numbers. (N.T. 61-62)
  12. Mr. Gallagher testified that there is a drought emergency in 24 counties; a drought warning in seven counties; and a drought watch in 31 counties in Pennsylvania. (N.T. 70) In addition, Mr. Gallagher testified that fuel costs are again rising. (N.T. 71)
  13. According to Mr. Gallagher's testimony, premiums in adjacent markets have remained constant throughout 2002. (N.T. 72)
  14. Mr. Gallagher testified that the farm blend prices in the Southeastern Order continues to grow stronger than those in the Northeast Order, encouraging continued procurement of Pennsylvania milk production to the southeastern United States. (N.T. 68)
  15. Carl Conover appeared on behalf of Dean Foods as an expert in the areas of procurement, premiums in the dairy industry, and the impact on plant competitiveness, regulation on and the impact of dairy price regulation on private industry. Mr. Conover testified that there are several factors the Board should look at when setting an over-order premium.

Mr. Conover testified that, if the premium was out of line Dean would have noticed something; however, Dean was not at the hearing to report any current adverse symptoms. (N.R. 126-138)

16. As a result of being called to the witness stand by Consumer Member Grumbine, David DeSantis, on behalf of Board staff as an expert in milk marketing and milk regulation, testified that Board staff conducted an informal study of Class I premiums in adjoining states. He testified that the premiums were somewhat lower in those states --- between \$.40 to \$.60 lower. (N.T. 148) Mr. DeSantis further noted that, because he did not anticipate testifying, no comprehensive compilation of these numbers was done and never made a part of an exhibit and what he was testifying to “is my general observations --- nothing else.” (N.T. 156)

## CONCLUSIONS OF LAW

1. The May 1, 2002, 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 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

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Beverly R. Minor, Chairwoman

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Barbara A. Grumbine, Consumer Member

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Luke F. Brubaker, Member

Date: June 5, 2002

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