



Commonwealth of Pennsylvania  
Milk Marketing Board  
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Official General  
Order No. A-969

Posted: June 15, 2010  
Effective: July 1, 2010

### **OVER-ORDER PREMIUM**

NOW, this 15<sup>th</sup> day of June 2010, 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, 2010, and will expire at 12:00 midnight on December 31, 2010.

#### **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 \$2.65 per hundredweight effective 12:01 a.m. on July 1, 2010, through midnight on December 31, 2010, subject to subsection (b) below.

(b) In all milk marketing areas the over-order premium shall be changed to \$2.15 per hundredweight effective 12:01 a.m. on the first day of the month that the Federal Order Class I Mover effective for that month exceeds \$15.50 per hundredweight. The over-order premium shall then remain at \$2.15 per hundredweight through midnight on December 31, 2010.

(c) 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 Orders A-893 and A-968 not inconsistent with this order shall continue in effect.

PENNSYLVANIA MILK MARKETING BOARD

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Richard Kriebel, Chairman

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Luke F. Brubaker, Member

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Barbara A. Grumbine, Consumer Member

Date: June 15, 2010

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
OVER-ORDER PREMIUM HEARING  
JUNE 2, 2010**

FINDINGS OF FACT

1. On June 2, 2010, the Pennsylvania Milk Marketing Board (“Board”) convened 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 40 Pennsylvania Bulletin 2623 on May 15, 2010, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1461, dated May 6, 2010.
3. Dennis Schad testified as an expert in agricultural economics and milk marketing 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. Schad recommended that the over-order premium be set at \$2.65 per hundredweight through December 31, 2010, with the condition that the premium decrease by \$0.50 the first month that the Federal Order Class I Mover exceeds \$15.50 per hundredweight. Mr. Schad also recommended that the over-order premium fuel adjuster, Official General Order A-927, continue through the period.
4. Mr. Schad testified that favorable weather conditions in Pennsylvania during 2009 had resulted in increased corn production from the previous year, Pennsylvania’s alfalfa yield remained stable, and that the Chicago Mercantile Exchange Futures Market indicated that corn and soybean meal would trade in the three-year average range. Mr. Schad also testified that the price for alfalfa hay had fallen from its 2008 high. He testified that Income Over Feed Costs for the first three months of 2010 were at an average level.
5. Mr. Schad testified that cow numbers had decreased both nationally and in Pennsylvania but that there had been little change in milk production. He testified that Pennsylvania’s milk supply mirrored national trends, with a decrease in cow numbers accompanied by increased milk production for March 2010 compared to March 2009.
6. Mr. Schad testified that Professor Jim Dunn at Penn State was forecasting an increase in milk prices in the second half of 2010 as compared to the second half of 2009, with an average Class III price of \$14.09. He also testified that USDA was forecasting the average Class III price to range between \$14.10 and \$14.60 this year. Mr. Schad further testified that butter and powder prices had increased and that Class IV prices were expected to define the Class I mover through the summer.

7. Mr. Schad testified regarding premiums in nearby markets. The GNEMMA over-order price for Class I distribution in New Jersey remained at \$1.37 per hundredweight (including a \$0.17 fuel adjustment); the price for distribution in Maryland and Delaware is \$1.47 per hundredweight. The over-order Class I price for May 2010 set by the marketing agency in common in the southeast, including fuel adjustment and rBST-free affidavit premium, was \$3.64 per hundredweight, with credits of \$0.40 per hundredweight available. The marketing agency in common in the mideast had an over-order price for May 2010 of \$3.08 per hundredweight (including a fuel adjustment), with credits of \$0.60 per hundredweight available.
8. Mr. Schad testified that dairy was not expected to return to average break-even pricing during 2010, with decreased feed costs being offset by weakening milk prices. He testified that since agency prices to the west and south are competitive with the current level of Pennsylvania's total over-order premium, competitive conditions did not suggest increasing Pennsylvania's premium.
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 \$2.65 per hundredweight through December 31, 2010, with the premium being reduced to \$2.15 per hundredweight if the Class I mover reaches \$15.50 during that period. Mr. Ebert also recommended that the OGO A-927 fuel adjuster remain in effect.
10. Mr. Ebert testified that milk prices have improved from the lows of 2009, but that the gains seen to this point leave much room for price growth. He testified that the depressed milk prices had led to several adjustments on his farm. He has reformulated feed rations and has continued to buy lower cost byproducts, like waste bakery products instead of roasted soybeans, to sustain his cows' nutritional needs and milk production output. Mr. Ebert also testified that because of reduced cash flow he did not purchase high quality hay from the west in the fall, but instead made hay from grass on his property. While those measures have allowed Mr. Ebert to cut costs overall, it has also resulted in a three- to four-pound per day loss in production per cow, translating into a lower milk check.
11. Matthew Espenshade testified on behalf of the Pennsylvania State Grange. Mr. Espenshade recommended that the over-order premium be set at \$2.65 per hundredweight and that the over-order premium fuel adjuster remain in effect. Mr. Espenshade and his father operate a dairy farm in Lancaster County, milking "in the low 70s" cows.
12. Mr. Espenshade testified that his cost of production is approximately \$17.00 per hundredweight, but that his milk price had not been that high since October 2008. Mr. Espenshade testified that he had taken cost saving measures to make up for the falling milk price, curtailing or eliminating many basic practices. He testified that the repercussions of these measures were now becoming apparent. For example, routine

hoof trimming was eliminated, which had led to increased laminitis and more culling, negatively impacting herd size. Dairy rations were rebalanced and reformulated, leading to decreased milk production per cow. The decreased milk production coupled with the decreased herd size has left Mr. Espenshade's farm in "a very dire situation." Mr. Espenshade also testified that electric deregulation had led to increased energy costs and that seed prices for his corn had increased.

13. Mr. Espenshade testified that while price projections for the rest of 2010 were a significant improvement over 2009, many farmers had taken on large debt loads during the period of depressed milk prices and that merely breaking even would not be good enough. The debt, combined with increased input costs, impairs Mr. Espenshade's ability to properly maintain his animals, equipment, and facilities.
14. The Board finds that the over-order premium should be set at \$2.65 per hundredweight from July 1, 2010, through December 31, 2010, and that the over-order premium should be reduced to \$2.15 per hundredweight effective the first month that the Class I mover exceeds \$15.50 per hundredweight, remaining at \$2.15 per hundredweight until December 31, 2010, in that case. The Board also finds that the over-order premium fuel adjuster should continue.

The Board finds credible and persuasive Mr. Schad's testimony regarding projected milk prices for 2010. The Board also finds credible and persuasive Mr. Schad's testimony regarding premiums outside Pennsylvania and his testimony regarding the effect competitive conditions have on the level at which the Board-mandated premium should be set. .

The Board finds the testimony of Mr. Ebert and Mr. Espenshade regarding the situations on their farms to be credible and persuasive. The Board also finds credible and persuasive their testimony regarding the effect depressed milk prices are having on dairy farmers generally in Pennsylvania and the decisions they are making on their farms.

CONCLUSIONS OF LAW

1. The June 2, 2010, 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-968 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

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Richard Kriebel, Chairman

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Luke F. Brubaker, Member

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Barbara A. Grumbine, Consumer Member

Date: June 15, 2010

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