



Commonwealth of Pennsylvania
Milk Marketing Board
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Official General
Order No. A-974

Posted: December 7, 2011
Effective January 1, 2012

OVER-ORDER PREMIUM

NOW, this 7th day of December 2011, 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 January 1, 2012, and will expire at 12:00 midnight on June 30, 2012.

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 \$2.15 per hundredweight effective 12:01 a.m. on January 1, 2012, through midnight on June 30, 2012.

(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

Luke F. Brubaker, Chairman

Richard Kriebel, Member

Lynda J. Bowman, Consumer Member

Date: December 7, 2011

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
NOVEMBER 9, 2011**

FINDINGS OF FACT

1. On November 9, 2011, 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 41 Pennsylvania Bulletin 5607 on October 15, 2011, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1479, dated October 5, 2011.
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 \$2.15 per hundredweight through June 30, 2012. 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 Board Staff’s cost of production information indicated that Pennsylvania dairy farmers experienced a moderate return to profitability in 2010. He also testified that the Staff cost of production information, updated through August 2011, showed that increasing milk prices had led to continued profitability.
5. Mr. Schad testified that weather extremes during 2011 had taken a toll on Pennsylvania’s crops. An unusually wet spring delayed planting. Then newly planted crops were met by near drought conditions, followed by maturing plants facing the September deluges of Hurricane Irene and Tropical Storm Lee. Forecasts for Pennsylvania’s corn crop are 15 million bushels below last year’s and forecasts for alfalfa are 13% below 2010. Nationwide, the corn crop for 2011 is projected to be the same as 2010, soybeans are projected to be down 270 million bushels, and alfalfa hay is projected to be down 3.2 million tons. Mr. Schad testified that the futures markets indicated that feed costs would increase and are estimated to be at five year highs.
6. Mr. Schad testified that national and international milk production is increasing. That contrasts, however, with Pennsylvania, where cow numbers and milk production have decreased from last year. Mr. Schad testified that futures markets indicate that milk prices will decrease through the first half of 2012.
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) plus an additional premium for customers requiring rBST-free affidavit milk. Mr. Schad testified that the GNEMMA price for distribution in Maryland and Delaware remained \$0.10 per hundredweight higher than the New Jersey price. The over-order Class I price for October 2011 set by the marketing agency in common in the southeast, including fuel adjustment and rBST-free affidavit premium, was \$3.82 per hundredweight, with credits of \$0.40 per hundredweight available. The marketing agency in common in the mideast had an over-order price for October 2011 of \$3.33 per hundredweight including fuel adjustment and rBST-free affidavit premium, with credits of \$0.60 per hundredweight available.

8. In summary, Mr. Schad testified that Pennsylvania milk production is declining while national and international production is increasing, futures markets indicate that feed costs will increase while milk prices decrease, and that marketing conditions outside Pennsylvania are static. Mr. Schad testified that, in the aggregate, conditions in Pennsylvania favored holding the over-order premium at \$2.15 per hundredweight for the first half of 2012.
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 \$2.15 per hundredweight for at least six months. Mr. Ebert also recommended that the OGO A-927 fuel adjuster remain in effect.
10. Mr. Ebert testified that input costs have been rising steadily over the past few years, putting additional stress on already fragile margins. He also testified that one of the biggest impacts on his farm, as well as farms across Pennsylvania, has been the weather. Mr. Ebert's farm will be facing feed quality issues, which will impact milk production and input costs.
11. Mr. Ebert testified that, due to the feed quality issues, he will need to increase the protein percentage in his feed concentrate and also feed more of it, resulting in extra feed costs. The weather has delayed chopping corn silage, causing a drop in moisture content which creates fermentation problems in storage leading to concerns about more mold and mycotoxins. Wet fields have led to corn not used for silage molding in the fields before it can be harvested, necessitating doubling the usual amount of propionic acid used to preserve the corn, leading to increased costs. Total harvest quantity will also be less, requiring Mr. Ebert to buy additional hay to feed cows.
12. Mr. Ebert testified that the feed quality issues had also caused a five to six pounds per day per cow decrease in milk production and higher than normal mastitis problems. He testified that efforts to control and treat the mastitis will likely increase milk production costs. Mr. Ebert further testified that if the mastitis situation is not controlled, the level of quality premiums he earns will be significantly reduced.

13. Dina Zug testified on behalf of the Pennsylvania State Grange. Ms. Zug and her family operate a 300 cow dairy. Ms. Zug recommended that the over-order premium be maintained at \$2.15 per hundredweight, that the fuel adjustment premium should be \$0.77 per hundredweight, and that the fuel adjustment premium should not be increased. Ms. Zug testified that the fuel adjustment premium formula should not be continued.
14. Ms. Zug testified that dairy farmers had still not recovered from the losses sustained in 2009. She testified that her farm, as well as many others, had to borrow money to remain in business and that it would take several years to recover. She also testified that while milk prices had increased since 2009, input costs have also risen sharply since then.
15. Ms. Zug testified that in March 2011 her farm's cost of production was calculated at \$15.80 per hundredweight but that when the cost of production was calculated again in July for the remainder of 2011 it was projected to increase to between \$22.00 and \$23.00 per hundredweight. She testified that projections for feed, fuel, repairs, and debt repayment had all increased.
16. The Board finds that the over-order premium should be set at \$2.15 per hundredweight from January 1, 2012, through June 30, 2012.

The Board finds credible and persuasive Mr. Schad's testimony regarding projected feed costs and milk prices for the first half of 2012. 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 Ms. Zug regarding the situations on their farms to be credible and persuasive. The Board also finds credible and persuasive their testimony regarding the effect increased input costs are having on their farms and on dairy farms generally in Pennsylvania and on the decisions being made on Pennsylvania dairy farms.

17. The fuel adjuster premium order, Official General Order A-927, was not the subject of this hearing. Therefore, it remains in effect pursuant to its own terms and the Board finds that it should remain the sole fuel adjustment premium.

CONCLUSIONS OF LAW

1. The November 9, 2011, 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

Luke F. Brubaker, Chairman

Richard Kriebel, Member

Lynda J. Bowman, Consumer Member

Date: December 7, 2011

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