



Commonwealth of Pennsylvania
Milk Marketing Board
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Official General
Order No. A-1000

Posted: December 14, 2017
Effective January 1, 2018

OVER-ORDER PREMIUM

NOW, this 14th day of December 2017, 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, 2018, and will expire at 12:00 midnight on September 30, 2018.

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 \$0.75 per hundredweight effective 12:01 a.m. on January 1, 2018, through midnight on September 30, 2018.

(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

Lynda J. Bowman, Consumer Member

James A. Van Blarcom, Member

Date: December 14, 2017

FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
December 6, 2017

FINDINGS OF FACT

1. On December 6, 2017, 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 47 Pennsylvania Bulletin 5904 on September 16, 2017, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1535, dated September 5, 2017.
3. Evan Kinser testified on behalf of the Pennsylvania Association of Milk Dealers (“PAMD”) as an expert in milk marketing and agricultural economics. Mr. Kinser is Vice President – Milk Supply for Dean Foods. Mr. Kinser testified in support of establishing the over-order premium at \$0.75 per hundredweight through September 2018. Mr. Kinser testified that the level was necessary to ensure that Pennsylvania dairy farmers continue to have the option to sell milk to their local plants and dealers. He testified that the adjustment to the over-order premium would align the mandated premium more closely with out-of-state processors’ milk costs, thereby helping to maintain the local market for Pennsylvania farmers.
4. Mr. Kinser testified that the Midwest and Northeast milk market remains in an over-supply situation, with milk production in the United States increasing year-over-year for 45 consecutive months. Mr. Kinser testified that Pennsylvania milk production had increased 0.84% year-over-year through September 2017 and he estimated that the second half of 2017 would be higher than year-prior levels. Mr. Kinser noted that although Pennsylvania’s dairy herd had declined 5,000 head, milk production per cow had increased 2.3% during the first nine months of 2017. This increased production comes at a time of declining fluid milk sales: in Federal Order 1, the Class I share of the pool volume has declined from 45.1% in 2005 to 35.4% in 2014, 34.5% in 2015, and 32.7% in 2016.
5. Mr. Kinser testified that one effect of the long-term decline in fluid milk consumption was unused capacity in fluid milk plants. The surplus capacity has led to increased competition for sales among fluid milk processors. Mr. Kinser testified that in response to the surplus capacity due to the loss of Class I sales, Dean closed a plant this year in Richmond, Virginia. He also testified that premiums have been reduced both in and around Pennsylvania.
6. John Pierce testified on behalf of PAMD. Mr. Pierce is a Senior Manager for Dean Foods. Among Mr. Pierce’s responsibilities at Dean is working with accounting teams to understand and arrive at Dean costs. Mr. Pierce is also PAMD’s President. Mr.

Pierce testified in support of establishing the over-order premium at \$0.75 per hundredweight.

7. Mr. Pierce testified that, in considering the level of the over-order premium, it was important to take into account the competition from processors from unregulated areas with lower premium levels which made it difficult for Pennsylvania processors to compete and maintain their customers. He testified that if Pennsylvania processors are not able to compete against out-of-state processors, Pennsylvania would face a much greater influx of out-of-state milk. Mr. Pierce testified that setting the over-order premium at \$0.75 per hundredweight would prevent the loss of significant sales for Pennsylvania processors and Pennsylvania farmers.
8. Dean Ellinwood, Troye Cooper, and Kurt Williams testified on behalf of the Pennsylvania Association of Dairy Cooperatives (“PADC”). PADC is the major marketer of milk in Pennsylvania. They testified that PADC did not oppose PAMD’s request to set the over-order premium at \$0.75 per hundredweight from January 1, 2018, through September 30, 2018.
9. Mr. Ellinwood testified that over the past three years the Northeast milkshed has been in an oversupply situation, leading to significant pressure on the ability to collect premiums from the marketplace. Mr. Ellinwood testified that Pennsylvania should expect to continue in an oversupplied market into the third quarter of 2018. Mr. Ellinwood also testified that, as now, when supplies are long and prices are soft to declining, buyers regularly shop for better deals and are reluctant to commit to purchases or prices over any substantial period of time.
10. Mr. Ellinwood testified that the supply-demand conditions had caused significant reductions in premiums collected from customers. Mr. Ellinwood testified that PADC had supported the \$1.60 per hundredweight level for the over-order premium in order for more money to flow to PADC producers, but also testified that PADC’s Pennsylvania dealer-customers could not be placed in at a competitive disadvantage with out-of-state competitors. Mr. Ellinwood testified that the mandated over-order premium must balance protecting farmers from unprofitably low milk prices with requiring processors to pay competitive rates relative to surrounding markets. Mr. Ellinwood noted that a significant gap between the mandated over-order premium and the prevailing milk price in surrounding markets incentivizes milk processors to bring milk into Pennsylvania from outside the state; when this happens Pennsylvania farmers do not receive the intended benefit of the over-order premium, dealers incur greater transportation costs, and the market as a whole is made less efficient.
11. Glenn Stoltzfus testified on behalf of Pennsylvania Farm Bureau. Mr. Stoltzfus is Chairman of Pennsylvania Farm Bureau’s Dairy Committee and is a member of the Farm Bureau State Board of Directors. Mr. Stoltzfus operates Pennwood Farms in partnership with his three brothers. Pennwood Farms milks almost 600 Holsteins and raises all of its own heifer calves. Mr. Stoltzfus and his brothers farm approximately 1,300 acres. Pennwood Farms also does custom crop work and livestock sales, but 80%

- 90% of the income comes from the operation's milk check. Pennwood Farms ships its milk to Maryland & Virginia Milk Producers Cooperative. Mr. Stoltzfus recommended that the over-order premium be set at \$1.00 per hundredweight.

12. Mr. Stoltzfus testified that the PFB Dairy Committee understands and appreciates the significant excess in milk supply present in the Northeast and the serious challenges faced by processors handling and finding a profitable home for Pennsylvania-produced milk because of the excess supply. Mr. Stoltzfus further testified that Farm Bureau wants the highest mandated premium for Pennsylvania dairy farmers, but not so high a level that would likely prompt Pennsylvania processing plants to replace Pennsylvania-produced milk with milk produced out-of-state. He testified that the PFB Dairy Committee recognized that a reduction in the mandated premium was necessary due to the current excess milk supply and comparatively low voluntary premiums being paid in Pennsylvania and surrounding markets.
13. Mr. Stoltzfus testified, however, that dairy farmers continued to face very real challenges on the farm, with significant milk price declines in 2015 and 2016. He testified that dairy farmers continue to operate on razor thin margins, making the over-order premium that much more important.
14. Mr. Stoltzfus testified that the over-order premium was \$1.85 per hundredweight prior to October 1, 2017. Mr. Stoltzfus testified that PFB was concerned about the financial impact from a large drop in the premium over the course of two months, from \$1.85 per hundredweight to \$0.75 per hundredweight. Recognizing that some reduction in the over-order premium is necessary due to market conditions, the PFB therefore recommended that the over-order premium be set at \$1.00 per hundredweight. Mr. Stoltzfus testified that the \$1.00 level struck a better balance between the needs of those who market milk and the dairy farmers who produce milk.
15. Nelson Troutman testified that the over-order premium should be set at zero. He testified that since the over-order premium was implemented, some farmers have not received any payment from the over-order premium. Mr. Troutman also testified that the program is not transparent as to the cost of the over-order premium to all of Pennsylvania's dairy farmers. He testified, though, that the program is very costly and therefore the over-order premium should be zero.
16. Arden Tewksbury testified on behalf of Progressive Agriculture Organization and the National Family Farm Coalition; he is the manager of Progressive Agricultural Organization and the Chairman of the Dairy Sub-Committee of the National Family Farm Coalition. Mr. Tewksbury also testified that he was also representing the South Auburn Grange, the Elk Lake School District, and the Susquehanna County Career and Technology Center. Mr. Tewksbury recommended that the over-order premium be set at \$1.60 per hundredweight. Mr. Tewksbury testified that, based on data from the USDA Economic Research Service, the average dairy farmer is paid approximately \$5.00 per hundredweight less for milk than what it costs to produce that milk.

17. Matt Espenshade testified on behalf of the Pennsylvania State Grange. Mr. Espenshade is a seventh generation dairy farmer from Lancaster County milking 75 cows and farming 260 acres. Mr. Espenshade is a member of Mt. Joy Farmers Cooperative (“Mt. Joy”). He recommended that the over-order premium be set at \$1.00 per hundredweight.
18. Mr. Espenshade testified that the over-order premium received by Mt. Joy is spread across all members of the cooperative, regardless of the milk’s class, processor location, and final destination. He testified that almost all Mt. Joy farms could expect to see at least \$0.25 per hundredweight to \$0.40 per hundredweight coming from the mandated over-order premium. Mr. Espenshade testified this amount is shown on his milk check as a line item and is also used to subsidize quality bonuses.
19. Mr. Espenshade testified that 2017 continued to be a challenging year for his farm. Mr. Espenshade testified that the extended period of low milk prices had put his farm in a difficult financial situation. Mr. Espenshade also testified that Mt. Joy continues to be challenged finding markets for the cooperative’s milk.
20. Mr. Kinser was sympathetic to Farm Bureau’s concerns regarding cushioning the blow of reducing the over-order premium. However, Mr. Kinser testified that the risk to fluid milk plants and their farm suppliers was too great to set the premium at any level above \$0.75 per hundredweight. He testified that any higher level posed a real risk that substantial volumes of Pennsylvania-produced milk could end up with no mandated premium or worse. Mr. Kinser testified that \$0.75 per hundredweight was the outer limit of what PAMD believed could stem the need to replace Pennsylvania-produced milk with less expensive out-of-state milk to keep Pennsylvania’s fluid milk plants competitive.
21. The Board finds that the over-order premium should be set at \$0.75 per hundredweight from January 1, 2018, through September 30, 2018.

In so finding, the Board relies on the persuasive and credible testimony of Mr. Kinser, Mr. Pierce, Mr. Ellinwood, Mr. Cooper, and Mr. Williams. These witnesses are involved daily in buying and selling milk, both inside and outside Pennsylvania. They are best positioned to provide evidence regarding milk markets in Pennsylvania and areas surrounding Pennsylvania.

When the Board establishes an over-order premium level, we attempt to set that level at the point that provides the greatest return to producers without threatening their ability to market their milk. Mr. Kinser, Mr. Pierce, Mr. Ellinwood, Mr. Cooper, and Mr. Williams provided credible and persuasive evidence that level is \$0.75 per hundredweight.

We understand and are concerned about the economic condition on Pennsylvania dairy farms. We believe that all of the witnesses understand and are concerned about the economic conditions Pennsylvania dairy farmers are facing. However, based on the

evidence presented at the hearing, we find and conclude that \$0.75 per hundredweight will provide the best return to Pennsylvania dairy farmers given the current market situation.

CONCLUSIONS OF LAW

1. The August 30, 2017, 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. The testimony and exhibits presented by Glenn Stoltzfus at the August 30, 2017, over-order premium hearing are hereby incorporated by reference.
7. The testimony and exhibits presented by Michael Evanish at the August 30, 2017, over-order premium hearing are hereby incorporated by reference.
8. 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.
9. 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

Lynda J. Bowman, Consumer Member

James A. Van Blarcom, Member

Date: December 14, 2017

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