



Commonwealth of Pennsylvania
Milk Marketing Board
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Official General
Order No. A-1002

Posted:
Effective

March 19, 2019
April 1, 2019

OVER-ORDER PREMIUM

NOW, this 19th day of March 2019, 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 April 1, 2019, and will expire at 12:00 midnight on September 30, 2019.

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

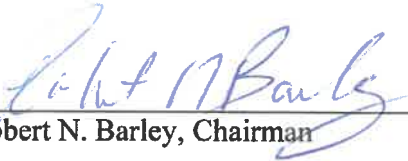
(a) In all milk marketing areas the calculation of the Class I price for milk produced, processed, and sold in Pennsylvania shall include an over-order premium of \$1.00 per hundredweight effective 12:01 a.m. on April 1, 2019, through midnight on September 30, 2019.

(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.

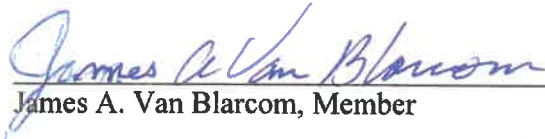
SECTION III

All parts of Official General Order A-893 not inconsistent with this order shall continue in effect.

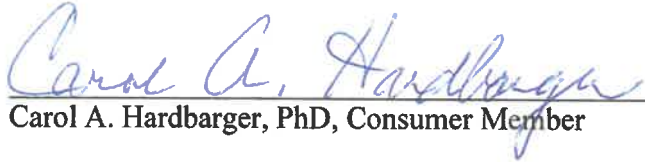
PENNSYLVANIA MILK MARKETING BOARD



Robert N. Barley, Chairman



James A. Van Blarcom, Member



Carol A. Hardbarger, PhD, Consumer Member

Date: March 19, 2019

FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
March 8, 2019

FINDINGS OF FACT

1. On March 8, 2019, 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 49 Pennsylvania Bulletin 363 on January 19, 2019, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1550, dated January 4, 2019.
3. Dean Ellinwood testified on behalf of the Pennsylvania Association of Dairy Cooperatives (“PADC”) as an expert in raw milk marketing, procurement from producers, and sales to handlers. PADC consists of Dairy Farmers of America, Inc., Lanco Dairy Farms Co-op, Inc., Land O’Lakes, Inc., and Maryland & Virginia Milk Producers’ Cooperative Association, Inc. Approximately 3,300 Pennsylvania dairy farmers market their milk through PADC members. Mr. Ellinwood recommended that the over-order premium be set at \$1.00 per hundredweight for the period April 1, 2019, through September 30, 2019.
4. Mr. Ellinwood testified that overall farm milk production in the three major Northeast dairy states, Pennsylvania, New York, and Vermont, continued to decrease, with Pennsylvania farm milk production declining significantly during the second half of 2018. Mr. Ellinwood testified that daily milk production in Pennsylvania had decreased at a faster rate than in New York and Vermont. He also testified that between November 2017 and November 2018 milk production per cow in Pennsylvania decreased 30 pounds and that the number of cows in Pennsylvania decreased by 12,000. Comparing December 2018 to December 2017, Pennsylvania production was down 55,000,000 pounds, while New York production increased 25,000,000 pounds.
5. Mr. Ellinwood testified that PADC would prefer a much higher premium, but that \$1.00 per hundredweight plus the fuel adjuster was reasonable given the current competitive surrounding marketing conditions. Mr. Ellinwood also testified that Northeast milk processors continue to experience declines in fluid milk sales while dairy farmers are having to make hard decisions to either stay in or discontinue their family businesses. In short, these are difficult times for Pennsylvania’s dairy industry.
6. Mr. Ellinwood opined that the over-order premium must balance protecting farmers from unprofitably low milk prices with requiring processors to pay competitive rates relative to surrounding markets. He testified that too large a difference between the Pennsylvania over-order premium and prevailing premiums in surrounding markets can incentivize milk being brought into Pennsylvania from outside the state. Mr. Ellinwood observed that such a situation results in Pennsylvania farmers not receiving the intended benefit of the over-order premium, dealers incurring greater transportation costs, and the market as a whole operating less efficiently.

7. Elvin Hollon testified on behalf of PADC as an expert in agricultural economics, milk marketing regulation, and federal milk marketing orders. Mr. Hollon testified that the over-order premium should be set at \$1.00 per hundredweight for six months.
8. Mr. Hollon testified that trade disputes with Canada and Mexico have impacted exports and caused domestic prices to suffer. He testified that farm margins are being negatively impacted, and that as trade disputes and tariff retaliation continue the negative impact on milk prices will become more severe and noticeable.
9. Mr. Hollon testified that perhaps the best indicator of the economic health of Pennsylvania's dairy sector is how much milk it produces. Mr. Hollon testified that while the five-year long-term milk production trend was positive, the most recent months display a lower year-over-year trend. He also testified that peak months were lower than those of recent years. Mr. Hollon testified that recent price levels have not been sufficient to incent producers to maintain production at historical trend levels. Additionally, Mr. Hollon testified that from July 2018 through January 2019, 205 PADC member farms had given up producing milk. He testified that the average size of the exiting farms was 70,000 pounds/month, well below the average sized Pennsylvania farm.
10. Mr. Hollon testified that an examination of income over feed costs ("IOFC") would provide a measure of the productive capability of the Pennsylvania milk production industry. He testified that the Pennsylvania IOFC average for 2013 through 2018 was \$9.17 and for much of that period resulted in increased milk production in the Commonwealth. Mr. Hollon forecasted the Pennsylvania IOFC for April 2019 through September 2019 to average \$8.49 and opined that it would be difficult to expect that level would incent an expansion in Pennsylvania milk production.
11. Michael Volinskie testified on behalf of Pennsylvania Farm Bureau as an expert in farm accounting and farm and dairy business analysis. Mr. Volinskie is manager of MSC Business Services ("MSC"). MSC provides services to farmers to assist them economically manage their farm operations, including business analysis and benchmarking. As part of these services, MSC provides historical cost of production figures and projections. Mr. Volinskie supported setting the over-order premium at \$1.00 per hundredweight for six months.
12. Mr. Volinskie testified that during the eight-year period between 2009 and 2016, MSC clients, on average, experienced losses in four of those years. He also testified that the average losses were significantly greater than the average gains for three of the profit years. 2017 was another loss year. Mr. Volinskie testified that the financial futures of Pennsylvania's dairy farmers continue to be gravely challenged by the current and prolonged dairy price downturn. He noted that high prices received in 2013 and 2014 helped keep many Pennsylvania dairy farms in business, but that no one was now projecting a similar steep or quick economic turnaround to reverse the low milk prices that have now lasted more than four years.
13. Mr. Volinskie also testified that for the period from 2009 through 2017 MSC-client farms netted an average total of \$38,315 for an average annual return of \$4,257. Mr. Volinskie testified that these returns would be widely unacceptable in other industries.

He also testified that from an individual standpoint such continued meager returns have a depressing impact on subsequent business decisions and enthusiasm toward investing in their businesses.

14. Mr. Volinski testified that farmers have controlled their cost of production, with 2017 having the lowest cost of production for MSC-client farms since 2010. He further testified, however, that cost management that foregoes needed maintenance and repairs would have serious detrimental impacts on productivity and profitability. He believed that potentially detrimental cost avoidance was taking place on many Pennsylvania dairy farms.
15. 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 700 Holsteins and raises all of its own heifer calves. Mr. Stoltzfus and his brothers farm approximately 1,700 acres. Pennwood Farms also does custom crop work and livestock sales, but 80% - 90% of the farm's 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 for six months.
16. Mr. Stoltzfus testified that his farm's average cost of production for 2018 was \$18.37 per hundredweight. He also testified that his average cost of production in 2017 was \$18.58 per hundredweight and that he expected 2019 cost of production to be not much different than in 2018. Mr. Stoltzfus observed, however, that IOFC is a more helpful indicator of the profit margin his farm is getting from dairy production. For the period April 2018 through September 2018 Pennwood Farms' monthly average IOFC was \$6.36; for the same period in 2017 the monthly average IOFC was \$8.12. This 22% drop in IOFC between 2017 and 2018 demonstrates the serious negative impact continued low producer prices have had on Pennwood Farms' margins. Mr. Stoltzfus testified that he and many other dairy farmers continue to be in survival mode.
17. Low milk prices have impacts across Mr. Stoltzfus's entire operation. In 2018 Pennwood Farms changed its feed to a cheaper ration, which negatively impacted milk production. Maintenance is delayed, but eventually must be addressed before it negatively impacts safety and efficiency. Mr. Stoltzfus testified that currently there is little market for dairy cattle, leading to cows being sold by the pound. Mr. Stoltzfus also testified that in 2018 Pennwood Farms was not able to prepay input expenses.
18. Mr. Stoltzfus testified that the costs for feed concentrate and protein were higher in 2018 than in 2016 or 2017. He testified that the costs of property and liability insurance had increased each year since 2013. Workers' compensation insurance costs at Pennwood Farms have increased every year since 2014.
19. Mr. Stoltzfus testified that Pennsylvania dairy farmers need more income from their milk, but recognized that there are still supply-demand challenges in the regional marketplace. Mr. Stoltzfus was concerned, however, that setting the over-order

premium set at too high a level that would encourage out-of-state milk to move into Pennsylvania.

20. Rob Blaufuss testified on behalf of Dean Foods (“Dean”) and the Pennsylvania Association of Milk Dealers (“PAMD”) as an expert in milk marketing and agricultural economics. Mr. Blaufuss is the Director of Dairy Procurement and Risk Management for Dean. Mr. Blaufuss supported the PADC proposal to set the over-order premium at \$1.00 per hundredweight through September 2019. He opined that the market should be able to bear a \$1.00 premium without putting undue competitive pressure on Pennsylvania Class I plants.
21. Mr. Blaufuss testified that year-over-year milk production had declined during the second half of 2018 in Pennsylvania, with the decline being 4.7% between August and December. He also testified that the number of dairy cows in Pennsylvania declined year-over-year for December 2018, indicating potential further declines in milk production. Mr. Blaufuss testified that milk production in New York, Vermont, Ohio, and Michigan had also declined in 2018, though at a much smaller level than in Pennsylvania.
22. Mr. Blaufuss testified that milk prices are expected to increase during April 2019 – September 2019, both year-over-year and as compared to October 2018 – March 2019 prices. Mr. Blaufuss also testified that the recent federal Farm Bill included a provision that will reform the Class I price formula. USDA has not released an official date in which the new formula will become effective, but the new Class I formula would mean modestly higher Class I mover prices compared to the current price formula given current Class III and Class IV futures prices.
23. Mr. Blaufuss testified that it is the position of both Dean and PAMD that the over-order premium be set at a level that is both reflective of market fundamentals and competitive with prevailing premiums in areas surrounding Pennsylvania. He testified that given current market conditions, a \$1.00 per hundredweight over-order premium would help Pennsylvania dairy farmers and not create an undue threat to Pennsylvania Class I plant competitiveness.
24. Matt Espenshade testified on behalf of the Pennsylvania State Grange. Mr. Espenshade is a seventh generation dairy farmer from Lancaster County milking 70 cows and farming 260 acres. Mr. Espenshade is master of Elizabethtown Area Grange. He is also a member of Mount Joy Farmers Co-Op (“Mount Joy”). Mr. Espenshade recommended that the over-order premium be set at \$1.00 per hundredweight.
25. Mr. Espenshade testified that his most recent monthly cooperative statement indicated that he received \$0.045 per hundredweight as over-order premium (labeled “special premium”). He also testified that an additional portion of the over-order premium is used to subsidize quality bonuses. Mr. Espenshade received a quality bonus of \$0.20 per hundredweight, a volume premium of \$0.05 per hundredweight, and \$0.10 per hundredweight for being under contract to Mount Joy on his most recent milk check. He testified that the over-order premium received by Mount Joy is spread across all members, regardless of the milk’s class, processor location, and final destination.

26. Mr. Espenshade testified that his average monthly milk price for 2018 was \$14.91, the lowest average of the past three years. In January he received \$15.86 per hundredweight, with an IOFC of \$7.63. By April the milk price had declined to \$13.40 per hundredweight, with an IOFC of \$4.49 per hundredweight. Mr. Espenshade's milk price then did not exceed \$14.00 until November. Mr. Espenshade's farm purchases supplemental energy and protein feeds. He testified that his purchased feed costs were at their highest when his milk price was at its lowest, putting considerable strain on his bottom line.
27. Mr. Espenshade testified that Mount Joy is challenged to find milk markets. To help cover balancing costs, Mount Joy members have been assessed a "Market Adjustment" fee since September 2014. This monthly fee fluctuates, reaching a high of \$0.80 per hundredweight in July 2017. Mr. Espenshade's most recent milk check included a Market Adjustment fee of \$0.58 per hundredweight, which equated to \$631.00 of lost revenue.
28. Mr. Espenshade testified that reducing the financial stress faced by Pennsylvania dairy farmers would involve actions beyond the authority of the Board and individual dairy farmers. He was hopeful that legislation to allow whole milk to be provided in school meal programs, as well as actions by the United States Department of Agriculture to allow higher fat content flavored milk in school lunches, would increase demand for milk. Mr. Espenshade also testified that additional processing facilities in Pennsylvania would reduce transportation costs and promote rural development.
29. Arden Tewksbury testified on behalf of Progressive Agriculture Organization and the Dairy Subcommittee of the National Family Farm Coalition; he is the manager of Progressive Agriculture Organization and the Chairman of the Dairy Subcommittee. Mr. Tewksbury recommended that the over-order premium be set at \$1.00 per hundredweight.
30. Mr. Tewksbury testified that when prices paid to dairy farmers are realistic the farmers' cost of production increases, meaning the farmers are spending more money operating their farms. He testified that this spending by dairy farmers has a dramatic influence on maintaining a positive rural infrastructure. Mr. Tewksbury further testified that we are now in the fifth year of inadequate prices being paid to dairy farmers, leading to the depletion of our rural economy. Mr. Tewksbury testified that some agri-businesses dealing with dairy farmers are having problems obtaining adequate financing to operate their businesses. Mr. Tewksbury concluded that the only way to maintain a strong rural economy is to have agricultural producers receive a fair price for their products.
31. Mr. Tewksbury estimated that in May 2019 the average dairy farmer would receive a pay price between \$5.00 and \$6.00 per hundredweight below the cost of production derived by the USDA Economic Research Service. He testified that the over-order premium would not be enough to address the entire difference, but also testified that the over-order premium would be helpful.
32. Mr. Tewksbury testified that he understood that Readington Farms in New Jersey was paying a premium of \$1.00 per hundredweight. He could not recommend that

Pennsylvania milk dealers pay a higher premium, so requested that the Board set the over-order premium at \$1.00 per hundredweight for six months.

33. The Board finds that the over-order premium should be set at \$1.00 per hundredweight from April 1, 2019, through September 30, 2019.

In so finding, the Board first notes that every witness supported establishing the premium at \$1.00 per hundredweight for six months.

We find all of the testimony persuasive and credible. The testimony raised several areas of concern that support a modest increase in the over-order premium for the next six months. These concerns include Pennsylvania's decreasing milk production trend, particularly in comparison to the increasing trend in New York. We are also concerned about the number of dairy farm exits. The Board also notes that Messrs. Stoltzfus, Espenshade, and Volinskie all testified that decreased farm income can lead to decisions potentially detrimental to efficiency and safety being made on farms. Much of the testimony pointed to decreased income over feed costs as a potential cause for these issues.


The sellers and buyers of milk, PADC and PAMD/Dean, agreed that it was important to establish the over-order premium at a level that enhances returns to Pennsylvania producers and is competitive with premiums in surrounding markets. Mr. Stoltzfus and Mr. Tewksbury also touched on this concept in their testimony.

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. Based on the concurring testimony, evidence, and recommendations provided by all of the parties, we believe it is appropriate to establish the over-order premium at \$1.00 per hundredweight from April 1, 2019, through September 30, 2019.


CONCLUSIONS OF LAW

1. The March 8, 2019, 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


Robert N. Barley, Chairman


James A. Van Blarcom, Member


Carol A. Hardbarger, PhD, Consumer Member

Date: March 19, 2019

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