

**CLARIFICATION AND MARKETING OF MILK PURCHASED FROM PRODUCERS
FEBRUARY 28, 2017 HEARING**

**PENNSYLVANIA MILK MARKETING BOARD STAFF
SURREBUTTAL TESTIMONY**

My name is Gary Gojsovich. I am employed by the Pennsylvania Milk Marketing Board (PMMB) as an Audit Supervisor. I am here today to offer testimony on behalf of Board Staff.

Board Staff does not take a position for or against the proposal presented by DFA/DMS. In that proposal DFA/DMS has requested OGO A-903A be revised to allow DMS to deduct from its independent producers a "marketing adjustment charge" which would otherwise have them paying below their PMMB obligation. Board Staff is only looking to state whether the requested changes to OGO A-903A could be audited and enforced.

Board Staff currently perform audits of DMS to ensure the independent producers are paid at least the PMMB minimum value. Were the Board to approve a revision to OGO A-903A, Board Staff believe they would still be able to ensure these independent producers are paid at least the PMMB minimum value mandated by the revision. Board Staff does not foresee that any significant additional work by existing Board Staff would be required to enforce this.

DFA/DMS's proposal also contains language stating that Dealers would be able to similarly deduct from their independents a charge to recover losses on sales of distressed milk. PMMB Regulation 143.43 (Distressed or surplus milk) already allows fluid milk dealers the ability to recover losses on sales of distressed or surplus milk. OGO A-893 describes the methodology to be used to calculate producer payment deductions when Regulation 143.43 is applied. That methodology uses four month periods for calculating net losses and sets a 20 cent per CWT monthly cap for recovery.

It is our assumption that DFA/DMS is proposing that a different methodology be used than what is prescribed by OGO A-893 for Dealers to recover losses on bulk sales during this limited period. However, they did not provide clarity about what the methodology would be. We have offered some suggestions for clarification, having made assumptions about their intent, but again this should not be interpreted as supporting the proposal even with the clarifications. Board Staff believe we would still be able to enforce this section of the revised OGO A-903A with no significant additional work required of existing Board Staff, if sufficient clarification is provided.

The following are observations made by Board Staff in reading DFA/DMS's proposal and we offer suggestions to perhaps add some clarity to their proposed revised Order language:

- We assume the intent is to apply this proposal to milk purchased during the period, not to payments made during the period, and we suggest this be clarified.
- The market adjustment charge deducted from the cooperative's independents is to be "equal to, but not greater than such charge which is applied to the cooperative's member dairy producers". We suggest that the charge applied to a cooperative's independents would not be greater than the lowest charge applied to a cooperative's members. We understand that typically these charges are uniform to all members, but we suggest this just in case the cooperative would decide to charge members various amounts.
- The proposal reads "dealer may deduct ... losses incurred". Board Staff believe this should read "net losses incurred" to also account for any gains which may be realized on bulk sales during this period.

We offer Board Staff Surrebuttal Exhibit 1 to show Board Staff's suggestions: first in a marked-up version showing the suggested changes along with the edited language, and then in a cleaned-up version where our suggestions are incorporated.

In summary, were the Board to revise the language of OGO A-903A as requested by DFA/DMA with suggested clarifications, Board Staff believe we would be able to enforce it and that it would not require any significant additional work from existing Board Staff.

Thank you.

BOARD STAFF SURREBUTTAL EXHIBIT 1

For producer milk purchased during the period, April 1 to September 30, 2017, due to severe market conditions, a cooperative marketing association which is also engaged in marketing the milk of independent producers may deduct from the Board's minimum price otherwise payable to such independent producers a market adjustment charge. The charge shall equal to, but not be greater than the lowest such charge which is applied to the cooperative's member dairy producers.

For producer milk purchased during this same period, a proprietary dealer may deduct from its payments the Board's minimum price otherwise due to independent producers on a current basis net losses incurred, if any, on sales of distressed or surplus milk, in accordance with Regulation 143.43 (without following the procedure or requirements described in OGO A-893). The advance written authorization from the Board required by Regulation 143.43 shall be deemed to have been given to all dealers during this period. Losses would be allocated monthly, and proportionally, among all producers.

For producer milk purchased during the period April 1 to September 30, 2017, due to severe market conditions, a cooperative marketing association which is also engaged in marketing the milk of independent producers may deduct from the Board's minimum price otherwise payable to such independent producers a market adjustment charge. The charge shall not be greater than the lowest such charge which is applied to the cooperative's member dairy producers.

For producer milk purchased during this same period, a proprietary dealer may deduct from the Board's minimum price otherwise due to independent producers net losses incurred, if any, on sales of distressed or surplus milk, in accordance with Regulation 143.43 (without following the procedure or requirements described in OGO A-893). The advance written authorization from the Board required by Regulation 143.43 shall be deemed to have been given to all dealers during this period. Losses would be allocated monthly, and proportionally, among all producers.

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**PENNSYLVANIA MILK MARKETING BOARD STAFF
LIST OF WITNESSES**

The following individual will testify at the Hearing on February 28, 2017 on behalf of the Milk Marketing Board Staff. Copies of the curriculum vitae will be available upon request at the hearing.

Gary Gojsovich, Milk Marketing Board Audit Supervisor, will testify as an expert on milk industry cost accounting and regulation of the milk industry, which includes determining producer, wholesale, and retail milk prices, and industry costs including producing, procuring, processing, packaging, delivering, and selling milk. His testimony will address the subjects included in his presubmitted testimony, but it is not necessarily limited to the presubmitted testimony.

Date: February 17, 2017

Respectfully submitted,

Andrew L. Saylor

Staff Attorney
Pennsylvania Milk Marketing Board

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CERTIFICATE OF SERVICE**

I hereby certify that on February 23, 2017, I have served true and correct copies of the foregoing by email on behalf of the Milk Marketing Board Staff to the following (all of whom will accept service by email):

Pennsylvania Milk Marketing Board

Douglas L. Eberly, Esquire, Chief Counsel
2301 North Cameron Street
Harrisburg PA 17110
deberly@pa.gov

Pennsylvania Association of Milk Dealers

Wendy Yoviene, Esquire
Baker, Donelson, Bearman, Caldwell & Berkowitz
1401 H Street, NW
Washington DC 20005
wyoviene@bakerdonelson.com

Carl D Herbein, CPA
Herbein+Company, Inc
2763 Century Boulevard
Reading, PA 19610
cdherbein@herbein.com

**Dairy Farmers of America, Inc. and
Dairy Marketing Services, LLC**

Marvin Beshore, Esquire
130 State Street – PO Box 946
Harrisburg, PA 17108-0946
Mbeshore@beshorelaw.com

Dean Ellinwood
Dairy Marketing Services
PO Box 4844
Syracuse, NY 13221-4844
Dean.Ellinwood@DairyMarketingServices.com

Pennsylvania Food Merchants

Allen Warshaw, Esquire
1035 McCormick Road
Mechanicsburg PA 17055
allen.warshaw@gmail.com

Thomas Price., CPA
Herbein+Company, Inc.
2763 Century Boulevard
Reading, PA 19610
tjprice@herbein.com

Pennsylvania Farm Bureau

John J. Bell, Esquire
Pennsylvania Farm Bureau
510 S. 31st Street –P.O. Box 8736
Camp Hill, PA 17011-8736
jjbell@pfb.com

**Commonwealth of Pennsylvania, Department of
Agriculture**

John H. Howard, Esquire
Pennsylvania Department of Agriculture
2301 N. Cameron Street
Harrisburg, PA 17110
johoward@pa.gov

Dean Foods Company

Charles M. English, Esquire
Davis Wright Tremaine LLP – Suite 800
1919 Pennsylvania Avenue, NW
Washington DC 20006
chipenglish@dwt.com

National Dairy Producers Organization

Mike Eby
National Dairy Producers Organization
3187 Red Hill Avenue – Suite 110
Costa Mesa CA 92626
meby@wdac.com

Progressive Agriculture Organization

Arden Tewksbury
1300 Rattlesnake Hill Road
Meshoppen PA 18630
progressiveagricultureorg@gmail.com

Andrew L. Saylor

Staff Attorney
Pennsylvania Milk Marketing Board