



Commonwealth of Pennsylvania
Milk Marketing Board
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Official General
Order No. A-964

Posted: June 18, 2009
Effective: July 1, 2009

OVER-ORDER PREMIUM

NOW, this 18th day of June 2009, 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, 2009, and will expire at 12:00 midnight on December 31, 2009

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 July 1, 2009, through midnight on December 31, 2009.

(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

Richard Kriebel, Chairman

Luke F. Brubaker, Member

Barbara A. Grumbine, Consumer Member

Date: June 18, 2009

FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
JUNE 3, 2009

FINDINGS OF FACT

1. On June 3, 2009, 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 39 Pennsylvania Bulletin 1929 on April 11, 2009, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1448, dated April 9, 2009.
3. 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. Mr. Ebert also recommended that the OGO A-927 fuel adjuster remain in effect.
4. Mr. Ebert testified that his farm expenses had increased dramatically since 2007. He noted that some costs had moderated from “extreme levels” experienced the year before, but that much of his 2009 costs would still be “seriously” above 2007 costs. Mr. Ebert also testified that the gross value of his milk check had decreased by 39% from April 2008 to April 2009, dropping from \$21.06 per hundredweight to \$12.86 per hundredweight.
5. Mr. Ebert estimated that feed accounts for approximately 50% of his production costs. Mr. Ebert testified that the current purchase costs for alfalfa hay, feed concentrate, and roasted soybeans were, on average, nearly 20% above 2007 purchase price levels. Mr. Ebert did note that the prices had dropped from prices experienced in fall 2008, though he also expected feed prices to rise during the next six months. Mr. Ebert testified that as profit margins tighten, he must look more closely at managing feed rations to maintain quality and quantity of feed for optimum milk production.
6. Chemicals and fertilizers are an essential part of Mr. Ebert’s operation, as they are used to produce the crops that are fed to the cows. Mr. Ebert testified that while there had been some reduction in purchase price for five key fertilizers that he typically uses, those prices were still 21% to 124% above 2007 levels. Mr. Ebert testified that despite the declines in prices from 2008 levels, the April prices for the fertilizers averaged 59% above spring 2007 costs. Mr. Ebert also testified that the costs of chemicals averaged 126% above spring 2007 levels and had increased from 2008.
7. Mr. Ebert testified that diesel fuel costs had decreased from 2008’s “crippling” levels, but were still 2% above May 2007 prices and increasing again recently. He also

testified that spring 2009 seed costs were between 18% and 47% higher than spring 2007 costs.

8. Mr. Ebert testified that 2006 was a horrible economic year for Pennsylvania dairy farmers and that “abnormally” good prices received in 2007 and much of 2008 did provide some opportunity to try to get caught up on 2006 farm expenses. However, Mr. Ebert also testified that much of the higher payments was quickly and seriously eroded by sharp rises in input costs. Mr. Ebert testified that 2009 was likely going to be a “devastating” year for dairy farmers given the large decrease in prices received by farmers still facing higher input costs. Mr. Ebert also testified that credit is tighter currently.
9. Dennis Schad testified as an expert in agricultural economics and milk marketing on behalf of the Greater Northeast Milk Marketing Agency, Dairylea Cooperative, the Northeast and Mideast Area Councils of Dairy Farmers of America, Land O’Lakes, and Maryland and Virginia Milk Producers Association. Mr. Schad recommended that the over-order premium be set at \$2.15 per hundredweight through December 2009. Mr. Schad also recommended that the over-order premium fuel adjuster, Official General Order A-927, continue during the period.
10. Mr. Schad testified that 2009 has been an extremely difficult year for Pennsylvania dairy farmers. Mr. Schad testified that feed costs are an important determinant of dairy profitability, and that while the price of dairy feed is expected to be lower than in 2008, the aggregate price would be higher relative to recent annual averages. He further testified that current milk prices and production costs had drastically changed, for the worse, the fortunes of Pennsylvania’s dairy farmers since the “exceptional” 2007 that resulted from record milk prices and low input costs.
11. Mr. Schad testified that the Pennsylvania all-milk price for the first quarter of 2009 was the lowest since 2006. He further testified that the projected average price for 2009 was strongly influenced by forecasted increased prices during the later months of 2009 and that failure to reach those forecasted prices could result in a 2009 average price below the 2006 average price.
12. Mr. Schad testified that a surge in exports of United States dairy products between 2006 and 2008 led to growth in the national dairy herd and increased milk production. However, exports began declining in 2008. Mr. Schad testified that during spring 2009 analysts estimated that 200,000 to 400,000 cows must be taken from the national milking herd in order to restore dairy prices to levels near the cost of production.
13. Mr. Schad testified that premiums for Class I distribution set by the Greater Northeast Milk Marketing Agency have remained the same since December 2008. He testified that the current Southeast Marketing Agency in Common over-order price was \$2.98 per hundredweight, with total credits of \$0.40 per hundredweight available. Mr. Schad further testified that the Agency over-order price in the Mideast was \$3.01 per hundredweight, with total credits of \$0.60 per hundredweight available. Mr. Schad

testified that even though Agency prices to the west and south are competitive with the current Board-mandated over-order premium, competitive conditions did not allow for a premium increase. Mr. Schad noted that dairies located outside of Pennsylvania had access to milk from independent dairy farmers and cooperatives willing to take a price below the Agency level. He also testified that Pennsylvania processors had voiced a willingness to buy milk from out-of-state dairy producers to evade the Board-mandated premium.

14. Matt Espenshade testified on behalf of the Pennsylvania State Grange. He requested that the Board maintain the \$2.15 per hundredweight over-order premium level.
15. Mr. Espenshade is a seventh generation dairy farmer from Lancaster County and testified that his farm's current situation is representative of many farms in Lancaster County and across Pennsylvania. The farm has been in his family since 1867. He and his father milk 80 cows with a 21,000 pound rolling herd average. They have no hired help. Mr. Espenshade testified that during the past 142 years his farm had weathered many storms, including the Great Depression, a failed attempt at going organic, the turbulence of the 1980's, and a threat from his township to use eminent domain to seize farmland for development. He testified, though, that at no time has the farm ever been as close to a breaking point as it is now, with months of negative profitability coupled with high input costs leaving the farm in a desperate situation.
16. Mr. Espenshade estimated his production cost to be approximately \$17.00 per hundredweight. He testified that the last time his milk price was above that level was October 2008, when he received \$17.76 per hundredweight. Mr. Espenshade testified that in March 2009 he was paid \$11.27 per hundredweight for milk.
17. Mr. Espenshade testified that the low milk prices have forced changes in the farm's operation like never before. He has not used fertilizers for three years, relying instead on manure. The cows' hooves have not been trimmed in almost a year and Mr. Espenshade testified that problems associated with the lack of hoof trimming were appearing. Mr. Espenshade also testified that the farm was now also having to use a number of lower tier and old bulls to breed the cows and that it would take decades to make up for the loss in genetics.
18. The Board finds that the over-order premium should be set at \$2.15 per hundredweight from July 1, 2009, through December 31, 2009. The Board also finds that the over-order premium fuel adjuster should continue.

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 Mr. Schad's testimony recounted above regarding milk prices, input costs, and the difficult year 2009 has been for Pennsylvania dairy farmers. Based on the Board's decades of experience regulating the economics of milk marketing in Pennsylvania and the testimony of Mr. Ebert, Mr. Espenshade, and Mr. Schad, we find

that the circumstances faced by Mr. Ebert and Mr. Espenshade are generally the same circumstances faced by the majority of Pennsylvania dairy farms.

The Board also finds Mr. Schad's testimony regarding competitive conditions affecting the over-order premium and his price forecasts for the remainder of 2009 to be credible and persuasive.

Based on the credible and persuasive testimony of Mr. Ebert, Mr. Schad, and Mr. Espenshade, and their agreement that the over-order premium should be set at \$2.15 per hundredweight, the Board finds that \$2.15 per hundredweight is the appropriate level for the over-order premium through December 2009. There was no testimony that the over-order premium fuel adjuster should be discontinued and it is the subject of a separate order, so the Board finds that no change should be made in the fuel adjuster.

CONCLUSIONS OF LAW

1. The June 3, 2009, 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

Richard Kriebel, Chairman

Luke F. Brubaker, Member

Barbara A. Grumbine, Consumer Member

Date: June 18, 2009

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