



**Commonwealth of Pennsylvania**  
Milk Marketing Board  
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Official General  
Order No. A-971

Posted:  
Effective

June 15, 2011  
July 1, 2011

### **OVER-ORDER PREMIUM**

NOW, this 15<sup>th</sup> day of June 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 July 1, 2011, and will expire at 12:00 midnight on December 31, 2011.

#### **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, 2011, through midnight on December 31, 2011.

(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

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Luke F. Brubaker, Chairman

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Richard Kriebel, Member

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Barbara A. Grumbine, Consumer Member

Date: June 15, 2011

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**OVER-ORDER PREMIUM HEARING**  
**JUNE 1, 2011**

FINDINGS OF FACT

1. On June 1, 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 2187 on April 23, 2011, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1469, dated April 12, 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 December 31, 2011. Mr. Schad also recommended that the over-order premium fuel adjuster, Official General Order A-927, continue through the period.
4. Utilizing information developed by Board staff Mr. Schad testified that, on average, Pennsylvania dairy farmers received a negative net margin after depreciation of \$2.19 per hundredweight from their dairy enterprise during 2009. Mr. Schad also testified that updated Board staff-developed information for March 2011 showed that while the cost of dairy inputs rose between the annual 2009 estimate and the March 2011 update, the Pennsylvania all-milk price had also increased, and that Pennsylvania dairy farmers had returned to profitability during the first part of 2011.
5. 2011 Pennsylvania year-to-date rainfall totals are above normal and the cool, wet spring has delayed normal farming activities. Mr. Schad testified that weather extremes of prolonged dryness punctuated by heavy rains in 2010 had taken its toll on Pennsylvania’s crops, with corn-for-grain yield, corn-for-silage yield, and alfalfa production all lower in 2010 when compared to 2009. Mr. Schad further testified that domestic weather conditions and increased national and international demand had pushed up dairy feed prices this year.
6. Mr. Schad testified that the current futures market indicated that 2011 feed prices would be higher than in any other of the last five years. Mr. Schad also testified that the Pennsylvania all-milk price for 2011 would be among the highest of the last five years. Using the Penn State income over feed cost ratio, Mr. Schad forecast a margin over feed costs of \$8.69, which he testified was in the range of 2008 and 2010, further noting that only during 2007 was the margin higher than 2011’s projection.

7. Mr. Schad testified that the country's dairy herd had rebounded during 2010 and into 2011, with milk production in April 2011 1.5% higher than April 2010. Mr. Schad noted, however, that after increasing in 2010, Pennsylvania's dairy herd growth had slowed, with milk production in the first quarter of 2011 in the Commonwealth equaling production during the first quarter of 2010.
8. 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 April 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 midwest had an over-order price for April 2011 of \$3.15 per hundredweight including fuel adjustment and rBST-free affidavit premium, with credits of \$0.60 per hundredweight available.
9. Mr. Schad testified that, in the aggregate, conditions in Pennsylvania favored holding the over-order premium at \$2.15 per hundredweight for the second half of 2011. He testified that while milk prices have rebounded and may reach record levels in 2011, the input costs of dairying have also increased. He also testified that over-order prices outside Pennsylvania are holding.
10. 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.
11. Mr. Ebert testified that input costs have been increasing for the last few years, putting additional stress on already fragile margins. He testified that his feed bill had increased \$90.00 per ton since November 2010. Mr. Ebert also testified that diesel fuel had increased 44% from November 2010 and 62% from last spring. Mr. Ebert's milk hauler also recently increased his rates, increasing Mr. Ebert's milk hauling costs \$90.00 per month.
12. Mr. Ebert testified that with tight margins, he had to look more closely at managing feed rations to meet feed costs while maintaining the quality and quantity of feed for optimum milk production. Mr. Ebert risks losing milk production when he cuts back on feed quality and amount, resulting in less profit because of the reduced milk check.

13. Mr. Ebert testified that despite higher milk prices, input costs have increased over previous years. He also testified that the wet spring could have an adverse impact on crops and that with already high input costs, an more price trauma may be detrimental to Pennsylvania's dairy farmers.
14. Matthew Espenshade testified on behalf of the Pennsylvania State Grange. Mr. Espenshade is a seventh generation Lancaster County dairy farmer, milking 80 cows with his father. He recommended that the over-order premium be set at \$2.15 per hundredweight and that the over-order premium fuel adjuster remain in effect.
15. Mr. Espenshade testified that while his milk price continues to rise at a modest pace, his enthusiasm is tempered by higher input costs, noting that something as simple as an extra delivery of feed or an unexpected repair bill could be the difference between just getting by and being in a serious financial crisis. Mr. Espenshade's 12-month average milk price has just reached \$17.36 per hundredweight and his average feed cost during that time was \$8.85 per hundredweight. He also testified that there appeared to be little relief in sight for the high costs of purchased feed, with planting in the northeast pushed back and catastrophic floods and drought in parts of the south. Like Mr. Ebert, Mr. Espenshade also testified that fuel costs continue to be a major challenge to dairy farm profitability.
16. Mr. Espenshade testified that the situation on his farm is not unlike that of many farm families across Pennsylvania. He cited the numerous challenges faced by Pennsylvania dairy farmers over the past two years and the adverse impact on profitability caused by such things as electric utility deregulation and rising fuel and feed costs. Even with a good milk price, cash flow remains tight, with suppliers wanting to be paid promptly.
17. The Board finds that the over-order premium should be set at \$2.15 per hundredweight from July 1, 2011, through December 31, 2011. The Board also finds that the over-order premium fuel adjuster should continue.

The Board finds credible and persuasive Mr. Schad's testimony regarding projected feed costs and milk prices for the remainder of 2011. 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 Mr. Espenshade 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.

## CONCLUSIONS OF LAW

1. The June 1, 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

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Luke F. Brubaker, Chairman

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Richard Kriebel, Member

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Barbara A. Grumbine, Consumer Member

Date: June 15, 2011

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