

Regulatory Analysis Form

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INDUSTRIAL RELATIONS BOARD
REGULATORY REVIEW COMMISSION

(1) Agency

Pennsylvania Milk Marketing Board

(2) I.D. Number (Governor's Office Use)

47-9

IRRC Number: 2218

(3) Short Title

Pennsylvania Over-Order Premium Pool

(4) PA Code Cite

7 PA CODE CHAPTER 148

(5) Agency Contact

Phone Numbers

Primary Contact: Sharon Grottola, 787-4194

Secondary Contact: Douglas Eberly, 787-4194

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Currently, the Pennsylvania Milk Marketing Board (Board) places a premium above the federal order price for Class I fluid milk that is produced, processed, and sold within Pennsylvania. This premium is designated as an over-order premium and is currently at a level of \$1.40 per hundredweight of milk plus a \$.25 diesel fuel add-on, resulting in a total of \$1.65 per hundredweight of milk. This mandated over-order premium is now paid to producers shipping to Class I plants. The purpose of this proposed regulation is to create a partial pool of forty-five percent of the over-order premium. This forty-five percent will be distributed to all qualified producers (as defined in the regulations) regardless of whether or not their milk is used as Class I. The remaining fifty-five percent of the over-order premium will continue to be paid to the dairy farmers whose milk supplies Class I plants. The proposed regulation contains information relative to the calculation of the over-order premium and the pool as well as the method of collection and distribution of the pool.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

There is no specific language within the Milk Marketing Law (Law) that discusses "pooling" of an over-order premium. The authority for the proposed regulation is implied throughout the Law, as follows:

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Currently, the over-order premium is solely distributed to those dairy farmers who supply the Class I fluid market. The level of the over-order premium is established in a hearing and testimony is based on such issues as high production costs, drought conditions, and other factors that affect the cost of producing milk. All Pennsylvania dairy farms experience these costs regardless if their milk goes to a Class I fluid processing plant or a Class III cheese plant. By creating a partial pool of the over-order premium, those dairy farmers who do not supply the Class I market will still benefit from this premium. One of the reasons a partial pool of the over-order premium was established was to offer an incentive to dairy farmers to continue to supply the Class I fluid plants. This incentive is important to the Board since, without it, the dairy farmer may choose to supply a Class III cheese plant that is closer to his farm rather than supply a Class I fluid plant. One of the mandates of the Milk Marketing Law is to "insure a sufficient quantity of pure and wholesome milk to inhabitants of the Commonwealth" so the incentive for a higher over-order premium be paid to those dairy farmers supplying the Class I market is crucial.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

As stated in section 11, a mandate of the Milk Marketing Law is to "insure a sufficient quantity of pure and wholesome milk to inhabitants of the Commonwealth." Across the United States, numerous dairy farms are disappearing because the dairy farmer can no longer afford to supply milk at the current low milk prices and high production costs. In Pennsylvania, there have been 100 fewer dairy farms in the past year. In order to provide additional financial help to all Pennsylvania dairy farmers, the Milk Marketing Board determined that the over-order premium currently paid solely to those dairy farmers whose milk is produced, processed, and sold as Class I fluid milk in Pennsylvania should be shared with the dairy farmers that supply the other classes of milk that are used to manufacture cheese, butter, etc. in Pennsylvania.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The beneficiaries of this regulation are those Pennsylvania dairy farmers that currently receive little or no direct benefit from the over-order premium. This represents 50% of dairy farmers or approximately 4,500 dairy farmers. Many of these dairy farmers are members of cooperatives that use the milk for manufacturing (non-Class I) purposes. It is difficult to quantify the monetary benefits of this regulation because the level of the over-order premium can, and usually does, change every six months, an approximate monetary benefit, using an over-order premium of \$1.65, would amount to \$2,457,000 per month.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The dairy farmers who currently ship to Pennsylvania Class I fluid plants receive the over-order premium will be adversely affected by this regulation in that the \$2,457,000 set forth in section 13 above will be distributed to other dairy farmers in addition to this group. Many of these dairy farmers are described as independent producers and are not members of cooperatives. Approximately 4,500 or 50% of dairy farmers will be adversely affected. The Pennsylvania Association of Milk Dealers have indicated that its members (Class I plants) will be adversely affected in that the milk dealers will have to pay higher prices to their independent producers in order to attract milk to their Class I fluid plants. The adverse effect on the milk dealers cannot be quantified.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The persons, groups, or entities that will be required to comply with the regulations are as follows:

Milk dealers (or processors) and Cooperative: Approximately 50

These entities are required to comply with the regulations in that they will be the ones distributing the pool allotments to their dairy farmers and/or cooperative members.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Discussions were held with all areas of the dairy industry. Those participants included representatives from the following organizations: Pennsylvania Association of Milk Dealers, Land O'Lakes; Pennsylvania Grange; Pennsylvania Farm Bureau; Dairy Farmers of America; Dairylea Cooperative; Maryland/Virginia Cooperative; Pennsylvania Farmers Union; Pennsylvania Food Merchants Association; and Federal Market Administrator – Federal Order 1.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The proposed regulation will result in a de minimis cost to the regulated community. This is only an estimate based on the necessity for the entities to file their monthly reports on an earlier date than is currently done.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

None.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The cost to administer the pool by the Milk Marketing Board is estimated to be \$130,000 per year. There will be no increase in the Milk Marketing Fund (General Government Operations, Appropriation 107) since no additional staff members will be employed to operate the pool.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
COSTS:						
Regulated Community	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Local Government	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
State Government	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

(20a) Explain how the cost estimates listed above were derived.

It has been determined that the cost to administer the over-order premium pool will be approximately \$130,000; however, there will be no increase in funding because this amount is based on the salary, fringe benefits, and paid leave of five current employees dedicating five work days per month to administering the pool. These employees would be two auditors, one management staff, one accountant, and one economist.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Not all states have an agency similar to the Milk Marketing Board nor do they set over-order premiums for their dairy farmers. The Board's mandated over-order premium does have an indirect effect on the surrounding states in that they pay "voluntary" over-order premiums in order to acquire milk. The over-order premium has been in effect in Pennsylvania since 1988 and has not had an adverse effect on competition. The calculation of the over-order premium will remain the same. The distribution of the over-order premium will be expanded by the proposed regulations.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No. There is no current regulation that addresses the partial pooling of an over-order premium.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

Informational meetings were held with the regulated community prior to preparation of these proposed regulations. No public hearings or further information meetings with the industry will be held.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The information needed to perform the calculations described in the proposed regulation is already reported on a monthly basis by milk dealers and cooperatives. The date of submission of these monthly reports will be changed to an earlier date to accommodate the timetable established in the proposed regulations. Additional paperwork will be required to be completed by the agency since it will have to provide each milk dealer with the information set forth in section 148.6 of the proposed regulations.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The proposed regulations address the needs of dairy farmers who are not currently receiving the direct benefit of the over-order premium but face the same adverse conditions as dairy farmers who currently receive the over-order premium.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The Milk Marketing Board intends for this regulation to take effect approximately sixty (60) days following publication as a final regulation in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

This regulation will be reviewed on an ongoing basis to ensure that the intent of the regulation is being met.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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REVIEW DISCUSSION

DO NOT WRITE IN THIS SPACE

2218

Copy below is hereby approved as to form and legality. Attorney General

Dwight T. Davis
BY: _____
(DEPUTY ATTORNEY GENERAL)

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

_____ Milk Marketing Board
(AGENCY)

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: *Sharon L. Grout*

SEP 04 2001

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO.: 47-9

DATE OF ADOPTION: _____

BY: *Beverly R. Munoz*

5-31-01

DATE OF APPROVAL

(Deputy General Counsel
(Chief Counsel,
Independent Agency
(Strike inapplicable title)

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN, OR
SECRETARY)

() Check if applicable.
Copy not approved.
Objections attached.

() Check if applicable. No
Attorney General approval or
objection within 30 days after
submission.

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COMMONWEALTH OF PA.
01 SEP 6 PM 9 13
MILK MARKETING BOARD
HARRISBURG PA.

NOTICE OF PROPOSED RULEMAKING

PENNSYLVANIA MILK MARKETING BOARD (7 PA CODE, CHAPTER 148) PENNSYLVANIA OVER-ORDER PREMIUM POOL

The Pennsylvania Milk Marketing Board (Board) proposes to establish 7 Pa. Code §148 (relating to establishment of an over-order premium pool) to read as set forth in Annex A.

Purpose of Proposed Regulation

The purpose of this proposed regulation is to create a partial pool of forty-five percent of the over-order premium. This forty-five percent will be distributed to all qualified producers (as defined in the regulations) regardless of whether or not their milk is used as Class I fluid milk. The current over-order premium is only paid to those producers whose milk is produced, processed, and sold as Class I fluid milk in Pennsylvania.

Summary of Proposed Regulation

Currently, the Pennsylvania Milk Marketing Board (Board) places a premium above the federal order price of Class I fluid milk that is produced, processed, and sold within Pennsylvania. This premium is designated as an over-order premium and is currently at a level of \$1.40 per hundredweight of milk plus a \$.25 diesel fuel add-on, resulting in a total of \$1.65 per hundredweight of milk. This mandated over-order premium is now paid to Class I producers. The Board has determined that forty-five percent of this over-order premium should be placed in a pool and shared with all qualified producers as defined in the proposed regulation. The remaining fifty-five percent of the over-order premium would continue to be paid to the Class I producers.

Statutory Authority

There is no specific language within the Milk Marketing Law (Law) that discusses “pooling” of an over-order premium. The authority for the proposed regulation is implied throughout the Law, as follows.

Section 301, 31 P.S. § 700j-301, authorizes the Board to “regulate the entire milk industry of this Commonwealth, including the production...of milk...including the establishment of reasonable trade practices.”

Section 801, 31 P.S. § 700j-801, states that the Board shall ascertain and maintain prices paid to producers “as will be most beneficial to the public interest, best protect the

milk industry of the Commonwealth and insure a sufficient quantity of pure and wholesome milk to inhabitants of the Commonwealth.”

Section 803, 31 P.S. § 700j-803, directs the Board to establish minimum producer pricing through either the establishment of a minimum price or a formula for the setting of minimum prices to be paid to producers by milk dealers,

Section 804, 31 P.S. § 700j-804, prescribes the manner in which minimum producer pricing may be classified. The Board may classify milk in any reasonable manner that the Board deems advisable.

Section 806, 31 P.S. § 700j-806, establishes the manner in which producers are to be paid by the milk dealer, including the terms and method of computing payment.

Public Involvement

Discussions were held with all segments of the dairy industry. Those participants included representatives from Pennsylvania Association of Milk Dealers; Land O'Lakes; Pennsylvania Grange; Pennsylvania Farm Bureau; Dairy Farmers of America; Dairy Lea Cooperative; Maryland/Virginia Cooperative; Pennsylvania Farmers Union; Pennsylvania Food Merchants Association; and Federal Market Administrator – Federal Order 1.

Fiscal Impact

The administration costs of maintaining the over-order premium pool by the Board is estimated to be \$130,000 annually. This figure is based on the salaries, fringe benefits, and paid leave for five current Board employees to operate the pool for five days per month.

Paperwork Requirements

Milk dealers and cooperatives already provide the information needed to perform the calculations described in the proposed regulation through the submission of monthly reports to the Board. The date of submission of the monthly reports will be changed to an earlier date to accommodate the timetable established in the proposed regulations. Additional paperwork will be required to be completed by the agency since it will have to provide each milk dealer with the information set forth in section 148.6 of the proposed regulation.

Effective Date; Sunset Date

The proposed regulations will become effective sixty (60) days following publication in the *Pennsylvania Bulletin* as final rulemaking. There is no sunset date.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), a copy of this proposal was submitted on _____ to the Independent Regulatory Review Commission (IRRC) and to the chairmen of the House and Senate Committees on Agriculture and Rural Affairs. In addition to submitting the proposed regulations, the Board has provided IRRC and the committees with a copy of a detailed regulatory analysis form. A copy of this material is available to the public upon request.

Public Comment

Interested persons are invited to submit written comments, suggestions, or objections concerning the proposed regulations to Sharon L. Grottola, Chief Counsel, Pennsylvania Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, within 30 days following publication in the *Pennsylvania Bulletin*.

Beverly R. Minor
Chairwoman

ANNEX A

PENNSYLVANIA OVER-ORDER PREMIUM POOL

§148.1 Definitions

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Contributing Pool Plant --- Pennsylvania Pool Plant with Pennsylvania Class I utilization.

Distributing Plant --- A plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk at which fluid milk products are processed or packaged and from which there is route disposition or transfers of packaged fluid milk products to other plants.

Diversion --- Any transaction involving the purchase of milk or milk products from a producer in which the milk thus purchased does not enter the Pennsylvania Pool Plant and is delivered to another plant. Whether milk enters the Pennsylvania Pool Plant will be determined on the basis of the United States Department of Agriculture guidelines.

Over-Order Premium Value --- The over-order premium value is an amount, over and above the applicable federal order or Board-established minimum Class price, which the Board mandates be paid to producers for all milk produced in the state and included in the Pennsylvania Class I utilization of Pennsylvania Pool Plants.

Over-Order Premium Rate --- Hundredweight rate of the over-order premium value paid on Class I milk produced, processed, and utilized in Pennsylvania.

Pennsylvania Class I Pounds --- Pennsylvania milk disposed of in the form of fluid milk products and adjusted for purchases from other dealers, shrinkage, and inventory variation.

Pennsylvania Milk Pool or Pool --- The sum of the obligation of over-order premium from Pennsylvania Pool Plants. Amount to be redistributed to Pennsylvania producers.

Pennsylvania Out-of-State Diversion --- Diversion of Pennsylvania production to out-of-state plants.

Pennsylvania Pool Plant --- A Pennsylvania plant that purchases and physically receives Pennsylvania Producer milk, excluding Producer-Dealers.

Pennsylvania Producer --- A person who operates a farm located in Pennsylvania that produces milk.

Pennsylvania Production --- Milk produced by Pennsylvania producers and sold to Pennsylvania Pool Plants regardless of the location of plant of physical receipt.

Pool Administrator --- The Pool Administrator is the Pennsylvania Milk Marketing Board.

Pool Allotment --- The amount allotted from the Pool to a Pennsylvania Pool Plant for payment to individual producers entitled to receive an amount due from pool payments.

Pool Payment --- The amount of the over-order premium payable to the Pennsylvania Milk Pool by a Pennsylvania Pool Plant.

Producer-Dealer --- A person who (a) operates a dairy farm and a distributing or manufacturing plant in Pennsylvania; (b) receives milk solely from its own farm production and may receive bulk milk from other dealers; (c) receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from milk dealers (this limitation shall not apply if the producer-dealer's own farm production is less than 150,000 pounds during the month); and (d) provides proof satisfactory to the Pool Administrator that the care and management of the dairy animals and other resources necessary to produce all milk handled (excluding receipts from part b above) and the processing and packaging operations are the producer-dealer's own enterprise and at its own risk.

Qualified Pounds --- Grade A milk produced in Pennsylvania and physically received at a Pool Plant from a Pennsylvania Producer, less Pennsylvania production transferred to non-pool plants, and excluding milk received from a Producer-Dealer. Transfers will be allocated to Pennsylvania or out-of-state production based upon the percentage of physical producer receipts at a Pool Plant. For example, if 50,000 pounds of milk is transferred to non-pool plants, and a Pool Plant physically receives 1,000,000 pounds of producer milk, half of which is Pennsylvania production, then 25,000 pounds would be considered a Pennsylvania produced transfer. Any non-Class I milk depooled from a federal milk marketing order at the dealer's or producer's election during any month is disqualified for that month and one additional month. For example, if non-Class I milk is depooled for three months, that amount of milk for the depooling producer or dealer is disqualified from the pool for six months.

Qualified Producer --- Any Pennsylvania Producer whose Grade A milk is purchased or processed as fluid or manufactured products by a Pennsylvania Pool Plant, excluding diversions to out-of-state distributing plant and receipts from Producer-Dealers.

Redistribution Rate --- The premium rate due to Qualified Producers, calculated by dividing the Pool by the Qualified Pounds, and rounding to the fourth decimal place using the uniform method of increasing the fourth decimal place by one if the next decimal place is five or more or making no change if the next decimal place is less than five. Example: \$1.05655 becomes \$1.0566 and \$1.05654 becomes \$1.0565.

§148.2 Pennsylvania Over-Order Premium Dealer's Reporting Requirements

No later than the 9th day after the end of each month, each Pennsylvania Pool Plant shall file with the Milk Marketing Board information contained in forms prescribed and furnished by the Board.

§148.3 Calculation of the Contributing Pool Plant Over-Order Premium Value

The Pool Administrator shall calculate the Over-Order Premium Value for each Contributing Pool Plant in the following manner.

(a) Divide the Pennsylvania Production by the total producer purchases net of Non-Class I Diversions to arrive at the Percentage of Pennsylvania Purchases. This percentage may not exceed 100%.

(b) Multiply the Over-Order Premium Rate times the Pennsylvania Class I Utilization times the Percentage of Pennsylvania Purchases to arrive at the Contributing Pool Plant Over-Order Premium Value.

EXAMPLE

Where

- A = 300,000 pounds Pennsylvania Production
- B = 700,000 pounds Total Producer purchases
- C = 100,000 pounds Non-Class I Diversions
- D = Percentage of Pennsylvania Purchases
- E = \$1.00/cwt Over-Order Premium Rate
- F = 400,000 pounds Pennsylvania Class I Utilization
- G = Contributing Pool Plant Over-Order Premium Value

$$\frac{A}{(B - C)} = D \qquad \frac{300,000}{(700,000 - 100,000)} = 50\%$$

$$E \times F \times D = G \qquad \$1.00 / \text{cwt} \times 400,000 \times 50\% = \$2,000$$

§148.4 Calculation of the Pool

The Pool Administrator shall calculate the plant Pool obligation for each Contributing Pool Plant, the Pennsylvania Milk Pool or Pool and the Redistribution Rate in the following manner.

(a) Multiply the Contributing Pool Plant Over-Order Premium Value calculated in section 148.3 above for each Contributing Pool Plant by 45% to arrive at the plant Pool obligation. The remaining 55% of the Over-Order Premium Value is the Directly Distributed Over-Order Premium Value.

(b) The sum of all plant Pool obligations from all Contributing Pool Plants is the Pennsylvania Milk Pool or Pool.

(c) Divide the Pool by the hundredweights of all Qualified Pounds for all Pennsylvania Pool Plants to arrive at the Redistribution Rate.

EXAMPLE

Where

$G^a = \$2,000$	Contributing Pool Plant Over-Order Premium Value (Dairy A)
$G^b = \$3,000$	Contributing Pool Plant Over-Order Premium Value (Dairy B)
$G^c = \$0$	Contributing Pool Plant Over-Order Premium Value (Dairy C)
$I^a =$	Plant Pool obligation (Dairy A)
$I^b =$	Plant Pool obligation (Dairy B)
$I^c =$	Plant Pool obligation (Dairy C)
$J^a =$	Directly Distributed Over Order Premium Value (Dairy A)
$J^b =$	Directly Distributed Over-Order Premium Value (Dairy B)
$J^c =$	Directly Distributed Over-Order Premium Value (Dairy C)
$A^a = 300,000$ pounds	Pennsylvania Production (Dairy A)
$A^b = 500,000$ pounds	Pennsylvania Production (Dairy B)
$A^c = 50,000$ pounds	Pennsylvania Production (Dairy C)
$K^a = 50,000$ pounds	Pennsylvania Out-of-State Diversion (Dairy A)
$K^b = 200,000$ pounds	Pennsylvania Out-of-State Diversion (Dairy B)
$K^c = 0$ pounds	Pennsylvania Out-of-State Diversion (Dairy C)
$L^a = 100,000$ pounds	Federally De-pooled Milk (Dairy A)
$M^a =$	Qualified Pounds (Dairy A)
$M^b =$	Qualified Pounds (Dairy B)
$M^c = 192,857$ pounds	Qualified Pounds (Dairy C)
$N =$	Pennsylvania Milk Pool
$O =$	Redistribution Rate

(a) Dairy A

$$G^a \times 45\% = I^a \quad \$2,000 \times 45\% = \quad \$900$$

$$G^a - I^a = J^a \quad \$2,000 - \$900 = \$1,100$$

Dairy B

$$G^b \times 45\% = I^b \quad \$3,000 \times 45\% = \quad \$1,350$$

$$G^b - I^b = J^b \quad \$3,000 - \$1,350 = \$1,650$$

Dairy C

$$G^c \times 45\% = I^c \quad \$0 \times 45\% = \quad \$0$$

$$G^c - I^c = J^c \quad \$0 - \$0 = \$0$$

(b) N Pennsylvania Milk Pool \$2,250

(c) Dairy A

$$A^a - (K^a + L) = M^a \quad 300,000 - (50,000 + 100,000) = \quad 150,000$$

Dairy B

$$A^b - K^b = M^b \quad 500,000 - 200,000 = \quad 300,000$$

Dairy C

$$M^c \quad 192,857 \quad \underline{192,857}$$

642,857

$$\frac{N}{(M^a + M^b + M^c) / 100} = O \quad \frac{\$2,250}{642,857 / 100} = \$0.3500 / \text{Hundredweight}$$

§148.5 Collection and Distribution of the Pool

The Pool Administrator shall calculate the Pool Allotment and Pool Payment for each plant in the following manner.

(a) Multiply the Redistribution Rate times hundredweights of the Qualified Pounds at each Pennsylvania Pool Plant to arrive at the Pool Allotment for each Plant.

EXAMPLE

Where	$M^a = 150,000$ pounds	Qualified Pounds (Dairy A)
	$M^b = 300,000$ pounds	Qualified Pounds (Dairy B)
	$M^c = 192,857$ pounds	Qualified Pounds (Dairy C)
	$O = \$0.3500 / \text{cwt}$	Redistribution Rate
	$P =$	Pool Allotment

Dairy A

$$M^a \times O = P^a \quad (150,000 / 100) \times \$0.3500 = \$525$$

Dairy B

$$M^b \times O = P^b \quad (300,000 / 100) \times \$0.3500 = \$1,050$$

Dairy C

$$M^c \times O = P^c \quad (192,857 / 100) \times \$0.3500 = \underline{\$675}$$

\$2,250

(b) For Contributing Pool Plants:

(1) Add the Pool Allotment to the Directly Distributed Over-Order Premium Value to arrive at the amount to be distributed among qualified producers.

(2) Subtract the amount to be distributed among qualified producers from the Contributing Plant Over-Order Premium Value calculated in section 148.3 to arrive at the Pool Payment.

(3) Pool Payments shall be received by the Pool Administrator on or before the 18th day after the end of the month. If the 18th day falls on a weekend or state-recognized holiday, payment may be received on the next business day following the weekend or state-recognized holiday.

(4) Contributing Pool Plant operators must divide the amount to be distributed among qualified producers by the hundredweights of all Pennsylvania Production less Federally De-pooled milk to arrive at the Plant Distribution Rate.

(5) Multiply the Plant Distribution Rate by the hundredweights of milk from each Pennsylvania Producer or producer group to arrive at the net Over-Order Premium Value payable to each producer or producer group. No distribution of any Over-Order Premium Value shall be made to any producer or producer group for any portion of milk de-pooled under a Federal Milk Marketing Order.

(6) Contributing Pool Plant Operators must make payment of the Contributing Pool Plant Over-Order Premium Value with the final payment.

EXAMPLE

Where	$J^a = \$1,100$	Directly Distributed Over-Order Premium Value (Dairy A)
	$P^a = \$525$	Pool Allotment (Dairy A)
	$G^a = \$2,000$	Contributing Pool Plant Over-Order Premium Value (Dairy A)
	$Q^a =$	Amount to be Distributed Among Qualified Producers
	$R^a =$	Pool Payment
	$A^a = 300,000$ pounds	Pennsylvania Production
	$L^a = 100,000$ pounds	Federally De-pooled Milk (Dairy A)
	$S^a =$	Plant Distribution Rate per Hundredweight

Dairy A

- To derive the amount to be distributed among qualified producers

$$J^a + P^a = Q^a \quad \$1,100 + \$525 = \$1,625$$

- To derive the Pool Payment

$$G^a - Q^a = R^a \quad \$2,000 - \$1,625 = \$375$$

- To Derive the Plant Distribution Rate per Hundredweight

$$\frac{Q^a}{(A^a - L^a) / 100} = S^a \quad \frac{\$1,625}{(300,000 - 100,000 / 100)} = \$0.5417 / \text{Hundredweight}$$

- (c) For all Pennsylvania Pool Plants other than Contributing Pool Plants:

(1) The Pool Allotment is the amount to be distributed among qualified producers.

(2) Divide the amount to be distributed among qualified producers by the hundredweights of all Pennsylvania Production to arrive at the Plant Distribution Rate.

(3) Multiply the Plant Distribution Rate by the hundredweights of milk from each Pennsylvania Producer or producer group to arrive at the net Over-Order Premium Value payable to each producer or producer group.

(d) On or before the 22nd day after the end of the month, the State Treasurer shall make payment of the Pool Allotment to each Pennsylvania Pool Plant receiving pool payments for redistribution to their qualified producers.

(e) Pennsylvania Pool Plants receiving pool allotments shall distribute those funds to their Qualified Producers by the date of the advance payment for the following month. All

checks forwarding pool payments to Qualified Producers shall include a line item that identifies the pool portion of the check.

§148.6 Pool Administrator's Reporting Requirements

No later than the 16th day after the end of each month, the Pool Administrator shall advise each Pennsylvania Pool Plant of the following information as it pertains to them. If the 16th falls on a weekend or state-recognized holiday, the Pool Administrator shall advise the Pennsylvania Pool Plant of the following information on the last business day prior to the weekend or state-recognized holiday.

- (a) Pennsylvania Production;
- (b) Total Pounds Received;
- (c) Class I Pounds – Utilization;
- (d) Non-Class I Diversions
- (e) Diversions to Out-of-State Plants;
- (f) Over-Order Premium Rate;
- (g) Over-Order Premium Obligation;
- (h) Percentage to Pool (Currently 45%);
- (i) Amount of Premium Pooled;
- (j) Qualified Pounds;
- (k) Total Pool Amount;
- (l) Total Qualified Pounds;
- (m) Redistribution Rate;
- (n) Pool Payment;
- (o) Amount Pennsylvania Pool Plant Will Receive Out of Pool;
- (p) Any adjustments from Previous Months; and
- (q) Pennsylvania Pool Plant Distribution Rate Per Hundredweight

This information will be generated from the PMMB 62, Milk Dealers Monthly Report, submitted by the Pennsylvania Pool Plants.

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I. D. NUMBER: 47 - 9

SUBJECT: 7 Pa. Code Section 148, Pennsylvania Over-Order Premium Pool

AGENCY: Milk Marketing Board

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

2001 SEP 12 PM 3:09
REGISTRATION UNIT

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
9/12/01	<u>Amy Bossert</u>	<u>HOUSE COMMITTEE</u> Agriculture & Rural Affairs
9/12/01	<u>W. Stoff</u>	<u>SENATE COMMITTEE</u> Agriculture & Rural Affairs
9/12	<u>Diana Pagan</u>	<u>INDEPENDENT REGULATORY REVIEW COMMISSION</u> ATTORNEY GENERAL
9/12/01	<u>C. L. Brown</u>	<u>LEGISLATIVE REFERENCE BUREAU</u>