

COMMONWEALTH OF PENNSYLVANIA
MILK MARKETING BOARD

In the Matter of: : Changes to Regulations related to
: Transactions between Dealers and
7 PA Code Chapter 143 : Producers
: Hearing Date: May 1, 2019

STATEMENT OF JAMES HOWES ON BEHALF OF THE
PENNSYLVANIA ASSOCIATION OF DAIRY COOPERATIVES

Good afternoon Chairman Barley, Member Van Blarcom and Consumer Member Dr. Hardbarger. My name is Jay Howes and my business address is 203 N. Union St., Middletown, PA which is also my home address. I am here today to offer testimony on behalf of the Pennsylvania Association of Dairy Cooperatives (PADC).

I believe you all know me to some extent, but since this is my first time appearing before you, I thought it might be useful to just briefly review my background for the record. I was born and raised on a dairy farm in Bucks County, PA and later had my own dairy farm in Centre County, PA. Subsequent to that, I was involved in the dairy industry in various capacities for 8 to 10 years before spending the past nearly 30 years involved in the agricultural policy arena. That time includes 16 years as the policy director for the Pennsylvania House Agriculture and Rural Affairs Committee and nearly 4 years as a Deputy Secretary at the Pennsylvania Department of Agriculture. In both those positions dairy policy and related matters fell under my responsibility. More recently I have been engaged by several agricultural-related entities, including PADC, as an independent advisor and consultant.

Thank you for this opportunity today to testify on behalf of PADC which includes Dairy Farmers of America, Inc., Lanco Dairy Farms Co-Op, Inc., Land O' Lakes, Inc., and Maryland and Virginia Milk Producers' Cooperative Association, Inc. Together these cooperatives market the milk for approximately 3300 member-dairy farms in Pennsylvania.

PADC opposes the proposed amendment to 7 PA Code Chapter 143 which addresses changes to regulations related to Transactions between Dealers and Producers. While the PADC realizes this amendment is offered in the interests of transparency and accountability, concepts we certainly support, we feel that, in its present form, this amendment does not advance those goals in a meaningful way.

Our opposition is based upon several concerns. First, the proposed regulation offers no guidance to cooperatives on how to actually calculate and implement the directive to show “on their monthly statements to dairy farmers . . . the specific amount of the Pennsylvania Milk Marketing Board over-order premium being paid.” If it is the regulation’s intent that this be producer-specific information it becomes very problematic. Cooperatives market the milk of their member dairy farms to a mix of customers as ordered, when ordered by those customers. This means that for individual producers marketing milk through a cooperative their milk could be delivered to a fluid plant at times and to a variety of manufacturing facilities at others. These deliveries often vary during the monthly period covered by an individual milk check. Therefore, calculating how much of each individual producer’s milk qualifies for and receives the PMMB over-order premium would be an extremely difficult and expensive, if not impossible task.

If it is the intent that the premium be “blended” across all members of a given cooperative, the proposed regulation should so state. That calculation would be more feasible than an individual producer-based calculation. However, even if this were the proposal, other issues are raised. The PMMB over-order premium is not distributed evenly on a statewide basis to dairy farmers. Multi-plant handlers are not required to distribute the premiums they pay equally to all Pennsylvania producers supplying their plants. So this regulation would impose a different standard on cooperatives than on dealers with respect to how Pennsylvania producers are treated. The cooperative state-wide premiums will also vary among cooperatives and, of course, diverge substantially from independent producer checks. This will raise as many, or more, questions as it answers in the name of “transparency.”

Another concern is the matter of timing. Another testifier will address this more specifically, but obviously it is required of cooperatives by statute and regulation,

and very important to the cooperatives and their members that milk checks be sent out in a timely fashion. With the time lag entailed in PMMB audits, cooperatives cannot be certain they are providing accurate information to their members on the amount of over-order premium on a monthly basis when audited information is only provided to them on a quarterly basis. Transparency is only valuable when it provides information that is guaranteed to be accurate.

Finally, there is the matter of cost. As cooperatives our goal is to provide our members with as much money for their milk as possible. The one-time cost of converting our accounting systems to accommodate this proposed change is substantial. In the case of at least one PADC member, the current accounting and check-writing program will not accommodate another line item on milk checks. Compliance with the regulation would require eliminating an entry of existing information to be replaced by a new line item specifying the amount of Pennsylvania Milk Marketing Board over-order premium, or incurring the cost of new software and check formats. In all cases, there will be on-going monthly costs while the proposed amendment will add nothing to a producer's milk check. Conversely, the costs involved in implementing the proposed requirement will negatively impact their checks at a time when we all wish those checks could be more substantial.

In summary, while the PADC understands the value of being transparent about the amount of PA over-order premium our members receive, we do not believe that this proposed amendment to 7 PA Code Chapter 143 is the best way to accomplish that goal. There are other much simpler and less costly ways to provide our members with this information that cooperatives can and have implemented. Dean Ellinwood for DFA has testified, or will testify, to DFA's program in this regard.

Thank you for this opportunity to share the concerns of the PADC relative to this proposed change. We do appreciate the time and effort you all devote to Pennsylvania's dairy industry and your willingness to engage in open dialogue on matters important to all of us.

Thank you.