

PA Milk Marketing Board
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PMMB Proposes Change in Dealer Termination Notification

At the beginning of March 2018 almost 30 independent Pennsylvania dairy farmers received termination notices from the milk dealer purchasing their milk. These producers received 90-day notices that their agreements would be terminated, yet many had difficulty finding new markets.

In response the PA Department of Agriculture (PDA) petitioned the Board to increase the legal dealer termination notice to producers from the legal 28-day notice to 180 days. The Board held a hearing to listen to testimonies from a variety of stakeholder organizations and made a final decision to pursue a change to a 90-day notice. Those testifying included the PDA, the Center for Dairy Excellence, board staff, milk processors, cooperatives, farmers, and others.

Once the board's decision was made, our legal and management team engaged in the process to officially change the existing regulation (Title 7, Chapter 143.31).

There was a time when a 28-day notice did not present a problem to producers. Just about any independent dealer or cooperative operating within the state would be willing to take on additional suppliers, and there were no problems selling the additional milk or milk products.

Those in the industry clearly understand the many factors that have converged to shape today's dairy markets that operate within very thin margins. Plant-based alternatives, government subsidies, consolidation of farms, global markets to name the most critical factors, all of which have led to overproduction and an inflexible milk pipeline that cannot withstand even minor disruptions.

Pennsylvania is in a unique situation in that its geography does not lend itself to a lot of large farms, at least not those with contiguous acreage. Our cultural heritage of smaller farms has flourished over time and has been valued by communities, government and the tourism industry. If the dairy industry in the commonwealth needs "fixed," it is very unlikely that modeling it after what other states are doing will work or be beneficial.

One of the things that we can do is recognize and work within the realities that exist with our state. Changing regulations to meet the needs of a current market is one avenue that is open to the Board.

Title 7, Chapter 143.31 states that "No dealer shall terminate his contract or purchasing agreement with a producer and no producer shall terminate his contract or selling agreement with a dealer except by giving such producer or dealer at least a 28-day written notice before termination." In today's tight market situation, dairy producers cannot afford to be uncertain about where their milk will be sold, and few dealers or cooperatives are in the market to take on additional producers.

At any time, there are 20-25 dealers that process raw milk from the one-third of Pennsylvania producers that do not belong to cooperatives. The regulation change will have no impact on the relationship that exists between cooperatives and their members, which consist of approximately two-thirds of Pennsylvania's dairy farmers.

The PA Association of Milk Dealers (PAMD), most of whose membership consists of small businesses, had expressed concern about its members who may experience financial difficulties due to the 90-day notice of termination requirement. Working with PAMD, board staff developed and tested a waiver process that would incorporate review of a dealer's financial statements over a 2-year period; if granted and considering the review and notification periods, the notice period would be reduced to about 45 days.

Board staff often find themselves in positions of having to deal with conflicting interests between our constituent groups. The process of working on the notice of termination regulation change is a perfect example of how staff consider the effects of our decisions on all groups and attempt to develop outcomes that are the best for the industry.

PMMB is always available to respond to questions and concerns. I can be reached at 717-210-8244 or by email at chardbarge@pa.gov.