



Commonwealth of Pennsylvania

Milk Board

2301 North Cameron Street
Harrisburg, PA 17110-9408

717/787-4194
717/783-6492

WEB SITE: <http://www.pmb.pa.gov>

E-mail: RA-PMMB@pa.gov

Official General
Order No. A-1020

Posted:
Effective

December 4, 2024
January 1, 2025

OVER-ORDER PREMIUM

NOW, this 4th day of December 2024, the Commonwealth of Pennsylvania, Milk 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 January 1, 2025, and will expire at 12:00 midnight on June 30, 2025.

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 1 price for milk produced, processed, and sold in Pennsylvania shall include an over-order premium of \$1.00 per hundredweight effective 12:01 a.m. on January 1, 2025, through midnight on June 30, 2025.

(b) Milk dealers shall show by line item on their monthly statements to independent producers and cooperatives the specific amount of the Pennsylvania Milk Board over-order premium being paid.

(c) Cooperatives shall show by line item on their monthly statements to members the specific amount of the Pennsylvania Milk Board 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 BOARD

Robert N. Barley, Chairman

James A. Van Blarcom, Member

Kristi Kassimer Harper, Consumer Member

Date: December 4, 2024

FINDINGS OF FACT AND CONCLUSIONS OF LAW OVER-ORDER PREMIUM HEARING

FINDINGS OF FACT

1. On November 6, 2024, the Pennsylvania Milk Board (“Board”) held 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 54 Pennsylvania Bulletin 5961 on September 14, 2024. Notice of the hearing was also mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1646, dated September 4, 2024.
3. Matt Espenshade testified on behalf of Pennsylvania State Grange. He is the Master of the State Grange. Mr. Espenshade is a seventh-generation dairy farmer, with his family owning and operating the farm since 1867. Mr. Espenshade and his father milk approximately 73 cows, with a 20,700 pound rolling herd average. They farm 260 acres, raising their own forages. The farm raises its own replacement heifers. Mr. Espenshade and his father work the farm with no hired help. Mr. Espenshade testified in support of fixing the over order premium at \$1.00 per hundredweight for the next six months.
4. Mr. Espenshade is a member of Mount Joy Farmers Co-op, which is affiliated with Dairy Farmers of America (DFA). The cooperative spreads the over-order premium it receives across all its members, regardless of the milk's class, processor location, and final destination. Approximately 30% - 35% of Mount Joy's milk goes to Class I facilities and is sold within Pennsylvania. Mr. Espenshade testified that his most recent monthly statement indicated he received \$0.12 per hundredweight of over-order premium. Mr. Espenshade testified that the funds generated by the over-order premium are returned to Mount Joy members in a variety of ways. He testified that some funds are distributed directly to each member. He cited other examples of how the cooperative uses the money generated by the over-order premium, including subsidizing quality premiums, defraying transportation costs, and defraying office expenses. In any case, Mr. Espenshade testified that the funds are used to cover costs which would otherwise come out of the pockets of the dairy farmer members.
5. Mr. Espenshade testified that a lack of rain during the past year had adversely impacted his corn silage, causing decreased feed quality and yield. Mr. Espenshade testified that he will have to purchase more feed next year. He also testified that the reduced feed quality and yield had negatively impacted his income over feed costs this year.
6. Mr. Espenshade testified that his cooperative remains challenged finding markets for its milk. To help cover balancing costs members are assessed a monthly “Market Adjustment” fee. This fee has been assessed since 2014 at varying rates. On Mr. Espenshade’s most recent statement, the deduction was \$0.58 per hundredweight.

7. Mr. Espenshade has been enrolled in USDA's Dairy Margin Coverage program since its early days. He testified that March 2024 was the first time in 17 consecutive months that an indemnity payment was not triggered. Mr. Espenshade testified that income over feed costs is a critical metric but does not capture all of the rising expenses faced by dairy farms. The cost of mastitis treatment has increased significantly. Farm utility bills have increased. Mr. Espenshade testified that through these challenging times every dollar coming back to the farm is important.
8. Paul Hartman testified on behalf of Pennsylvania Farm Bureau. Mr. Hartman is the Chairman of Farm Bureau's Dairy and Farm Policy Committee. He is an eighth-generation dairy farmer from Berks County. His farm has around 2,000 Holsteins, spread across two milking locations, and four heifer facilities. He grows forages and grains on approximately 1,200 acres. Mr. Hartman's milk is shipped to Clover Farms Dairy in Reading and Swiss Premium Dairy in Lebanon, receiving over-order premium from both plants. Mr. Hartman testified in support of establishing the over-order premium at \$1.00 per hundredweight through June 2025. Mr. Hartman testified that while milk income has remained steady in recent months, many non-feed expenses continue to rise with little expectation that such trends will reverse.
9. Mr. Hartman testified that he agreed with many of the points made by Mr. Espenshade. He testified that Farm Bureau had heard of greatly reduced crop yield in Lancaster County. Mr. Hartman also testified that dairy farmer members had also relayed concerns about weather-related effects on next year's crop yield with reduced yields expected this spring due to drought conditions. The reduced crop yields have caused farmers to purchase silage at additional expense. On Mr. Hartman's farm drought-like conditions have reduced his recent soybean harvest by 5-10 bushels per acre. With the added drop in value, in addition to the reduced yield, Mr. Hartman testified he had a 25% or more financial loss.
10. Mr. Hartman testified that milk income and prices have remained steady for several months and that he expects them to remain steady in the near future. At the milking facility he helps manage, the over-order premium was \$0.25 per hundredweight for August 2024, up slightly from the most recent over-order premium hearing and fairly consistent for the past few months.
11. Mr. Hartman testified that feed costs have trended downward this year. Some expenses, however, have trended higher currently and steadily in recent years. Labor continues to be an increasingly high expense, with labor costs up around 12.4% on his farm from last year. Mr. Hartman also testified that New York's \$18.00 minimum wage has put pressure on members in the northern tier. Other increased expenses include farm machinery parts, manure hauling, custom operating, iodine teat post-dip, cow bedding, and teat pre-dip. Mr. Hartman's operation has experienced steady and general inflationary increases across multiple expenses for a sustained period. In addition, construction cost estimates are up approximately 20% post-Covid and lines of credit interest rates have increased from 3.5% to 8.0% over the past two years.

12. Pennsylvania Department of Agriculture ("Department") Secretary Russell Redding testified. Secretary Redding testified that the Department did not oppose Grange's over-order premium proposal and that the Department's non-opposition should not be taken as acceptance of the status quo. Secretary Redding testified that the Department is looking forward to working with the General Assembly to develop a framework that distributes premium dollars uniformly among all Pennsylvania dairy farmers, does not charge consumers substantially more than what is paid to dairy farmers, and does not provide economic incentive for mechanisms that lower or avoid premium payments to Pennsylvania producers for Class I milk.
13. The Board finds that the over-order premium should be fixed at \$1.00 per hundredweight for six months effective January 1, 2025.

In finding the over-order premium should be set at \$1.00 per hundredweight the Board relies on the credible and persuasive testimony of Mr. Espenshade, Mr. Hartman, and Secretary Redding. Their testimony demonstrates that the over-order premium is valuable and needed to address the economic conditions expected to continue to confront Pennsylvania dairy farmers.

CONCLUSIONS OF LAW

1. The November 6, 2024, over-order premium hearing 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 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 1 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 BOARD

Robert N. Barley, Chairman

James A. Van Blarcom, Member

Kristi Kassimer Harper, Consumer Member

Date: December 4, 2024

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I disagree with the majority's decision and I would set the over-order premium at \$0.00.

This is the fourth consecutive order in which I've disagreed with the majority's decision to establish an over-order premium at a level other than \$0.00. My first dissent was in Official General Order A-1017 (effective July 1, 2023). No evidence has been presented at any of the three succeeding hearings that any of my concerns with the over-order premium have been addressed.

As explained by the Board in Official General Order A-1014 (effective October 1, 2022) and reviewed in my prior three dissenting statements, the over-order premium is a component of minimum producer prices and is passed through, in its entirety, into the minimum retail price. Pennsylvania consumers pay the entire over-order premium, yet Pennsylvania producers do not receive the entire over-order premium. This is extremely troubling, given that both consumers and producers continue to face increasing prices and expenses. The over-order premium increases the price consumers pay for milk. That increased price is only partially passed through to producers. The current system establishes a producer price that is paid entirely by consumers but not entirely received by producers. That wouldn't make sense if prices were decreasing, which clearly they are not. It's unconscionable now while prices continue to increase.

The current over-order premium system remains unfair to consumers and producers. If it was long past time to change this system in July 2024 (see my dissenting statement to Official General Order A-1019) it is now longer past time. If a solution is to be found, it must come from the General Assembly.

Bills have been introduced during each of the past three legislative sessions that would provide a framework to address issues with the current system. None of those bills has reached the Governor's desk.

- House Bill 1224 passed the House unanimously in December 2019 and received first consideration by the Senate in September 2020. No further action was taken before that session ended.
- House Bill 224 was introduced in the next session, passed the House unanimously in April 2022, and was referred to the Senate Agriculture and Rural Affairs Committee later that month. No further action was taken before that session ended.
- Senate Bill 1297 was introduced late in the most recent session and received first consideration by the Senate in October 2024. No further action was taken before the session ended.

I agree with Secretary Redding that we cannot just continue to kick this can down the road every six months. However, that is exactly what's happening and over-order premium reform continues to be delayed. There does not seem to be a sense of urgency in the General Assembly to pass legislation that addresses the current over-order premium system. However, we are asked to await legislative action that never materializes. Rather than continue to accept the unacceptable status quo and its impact on Pennsylvania's consumers and dairy farmers, the over-order premium should be set at \$0.00.

James A. Van Blarcom, Member

December 4, 2024