



Commonwealth of Pennsylvania
Milk Marketing Board
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Official General
Order No. A-1018

Posted: December 13, 2023
Effective January 1, 2024

OVER-ORDER PREMIUM

NOW, this 13th day of December 2023, 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 January 1, 2024, and will expire at 12:00 midnight on June 30, 2024.

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, 2024, through midnight on June 30, 2024.

(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 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 Marketing 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 MARKETING BOARD

Robert N. Barley, Chairman

James A. Van Blarcom, Member

Kristi Kassimer Harper, Consumer Member

Date: December 13, 2023

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

FINDINGS OF FACT

1. On December 6, 2023, the Pennsylvania Milk Marketing Board (“Board”) held a hearing for all milk marketing areas to receive testimony and evidence concerning the level, duration, and existence of the over-order premium.
2. Notice of the hearing was published at 53 Pennsylvania Bulletin 6677 on October 21, 2023. Notice of the hearing was also mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1637, dated October 10, 2023.
3. Matt Espenshade testified on behalf of Pennsylvania State Grange. He is the President 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 70 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 \$0.14 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 about several challenges dairy farmers are facing.
 - a. An excessive heat wave, coupled with no rain during the pollination stage, led to a drastic decrease in yield for a majority of his corn acres. The lack of rain also limited growth in his hay fields. Therefore he closed the 2022 harvest season with a lower feed inventory than normal. While purchased feed cost per ton held steady, he had to purchase higher volumes of concentrate to account for lower energy levels in his homegrown feeds.
 - b. The farm milk price has decreased through 2023. In January 2023 Mr. Espenshade received \$23.65 per hundredweight for his milk, with an income over feed cost of

\$15.60 per hundredweight. By October 2023 the price had dropped to \$16.82 per hundredweight and an income over feed cost of \$6.44 per hundredweight.

c. Mount Joy and other cooperatives are challenged finding markets for milk. To help cover balancing costs, Mount Joy members continue to be assessed a market adjustment fee which is currently \$0.72 per hundredweight. For a farm the size of Mr. Espenshade's, producing 107,000 pounds of milk per month, the fee equates to more than \$770 in lost revenue per month. The market adjustment fee is in addition to the overproduction assessment which began in April 2020.

d. Supply chain issues, record inflation rates, and price increases that have impacted Americans' daily lives have hit Pennsylvania's dairy sector very hard. Since November 2020 the cost of a 2.5 gallon container of generic Roundup has increased from \$69.95 to \$159.99. Despite lower usage, Mr. Espenshade's daily electric cost increased 30% year over year from June 2022 to June 2023 and 26% from July 2022 to July 2023.

e. Higher input costs make it difficult to keep current on bills, take advantage of early payment discounts, and avoid significant late fees. As expenses continue to rise, while the price of milk trends downward, every dollar coming back to the farm matters.

6. Pennsylvania Department of Agriculture ("Department") Secretary Russell Redding testified. Secretary Redding testified that the Department did not oppose Grange's over-order premium proposal as the Department works with industry and the legislature to address challenges presented by the current over-order premium structure. He testified that the Department believes it is important to maintain the over-order premium while legislative solutions are developed.
7. John Painter testified on behalf of the Pennsylvania Farm Bureau. Farm Bureau agreed with Grange's recommendation that the over-order premium be set at \$1.00 per hundredweight for six months. He testified that Farm Bureau supports reforming the over-order premium and if meaningful reform cannot be achieved Farm Bureau's support of the over-order premium is not indefinite.
8. In partnership with his brothers Mr. Painter operates Painterland Farms in Tioga County. Painterland Farms is an organic dairy and crop farm milking around 400 cows and farming 5,000 acres. Since there are no organic processing plants in Pennsylvania Painterland Farms does not receive any over-order premium.
9. Mr. Painter testified that he has experienced comparable issues as described by Mr. Espenshade. Mr. Painter testified that organic milk prices, as well as USDA mailbox milk prices, have trended downward during 2023. Mr. Painter also testified that electricity, feed costs, diesel fuel prices, and labor costs have all increased during 2023.
10. Brittni Treichler-Harris is the Eastern Region Milk Supply Manager for Land O' Lakes and testified on behalf of the Pennsylvania Association of Dairy Cooperatives ("PADC"). Other members of PADC are Maryland & Virginia Milk Producers Association, Inc., and Lanco Dairy Farms Co-op, Inc. Ms. Treichler-Harris testified

that PADC does not oppose setting the over-order premium at \$1.00 per hundredweight for the next six months.

11. Ms. Treichler-Harris testified that the justification for setting the over-order premium at \$1.00 per hundredweight is rooted in the market factors outlined in Mr. Espenshade's testimony. She testified that Land O' Lakes members were experiencing the same types of issues Mr. Espenshade described in his testimony: a combination of high inflationary costs with higher input costs coupled with downward trending milk prices. While not advocating an increased over-order premium, Ms. Treichler-Harris testified that the Board should consider whether \$1.00 per hundredweight is sufficient and reflective of current market conditions or if it is just a placeholder to ensure that some level of over-order premium remains in effect.
12. The Board finds that the over-order premium should be fixed at \$1.00 per hundredweight for six months effective January 1, 2024.

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, Secretary Redding, Mr. Painter, and Ms. Treichler-Harris. Dairy farmers continue to face increased costs while milk prices continue to decline.

CONCLUSIONS OF LAW

1. The December 6, 2023, 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 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 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 MARKETING BOARD

Robert N. Barley, Chairman

James A. Van Blarcom, Member

Kristi Kassimer Harper, Consumer Member

Date: December 13, 2023

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I disagree with the majority's decision to establish any level of over-order premium for any duration at this time.

The over-order premium is a Board-mandated premium added to the producer price. This mandated over-order premium, as part of the minimum producer price, eventually becomes part of the minimum retail price. While every Pennsylvania consumer pays the premium when they purchase fluid milk in Pennsylvania, every Pennsylvania dairy farmer does not receive a direct benefit from the premium. I continue to have concerns regarding the current over-order premium system.

The record of this hearing demonstrated that Pennsylvania dairy farmers are facing rising costs and falling milk prices. All Pennsylvania dairy farmers would benefit if they received over-order premium dollars and those over-order premium dollars should be distributed fairly. That does not happen in the current system.

A second concern is that we do not know the amount of over-order premium collected from Pennsylvania consumers through the minimum retail price. All over-order premium dollars should be accounted for. That does not happen.

I also remain concerned that money that is paid in minimum prices because the over-order premium is built into minimum prices may be paid to out of state interests. The over-order premium is ultimately part of the minimum producer price. The entire over-order premium should be paid to Pennsylvania producers. That does not happen in the current system.

Secretary Redding, Mr. Painter, and Ms. Treichler-Harris testified regarding a framework for an updated over-order premium structure that would address the concerns I have. That framework would

1. distribute over-order premium dollars uniformly among all Pennsylvania dairy farmers;
2. not charge consumers substantially more than what is paid to dairy farmers; and
3. not provide incentives by which payment of premium dollars can be avoided by moving milk across state lines.

If the dairy industry and the legislature work together I am confident a solution will be found that implements the structure described by Secretary Redding, Mr. Painter, and Ms. Treichler-Harris. However, I am not persuaded by the record of this hearing that any level of over-order premium should be established until concrete progress has been made to develop a system that addresses the issues with the current over-order premium structure.

I encourage the industry and the legislature to prioritize the work necessary to develop a framework to address the over-order premium. With Senators Vogel and Schwank taking the lead, along with prior support in the House, I am confident we will reach a solution.

James A. Van Blarcom, Member

Date December 13, 2023