



Commonwealth of Pennsylvania

Milk Marketing Board
2301 North Cameron Street
Harrisburg, PA 17110-9408

717/787-4194
FAX: 717/783-6492

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

E-mail: RA-PMMB@pa.gov

The Milk Marketing Board

- The Milk Marketing Board was created by the Milk Marketing Law.
- The Milk Marketing Law was first passed in 1934.
- Like all laws, the Milk Marketing Law was passed by the legislature and signed by the Governor. Only the legislature and Governor can change the Law.
- The Law requires the Board to do certain things and prohibits the Board from doing other things. The Board may only take those actions authorized by the Law and may not take any action prohibited by the Law.
- The United States Constitution also prohibits the Board from taking certain actions. Among the actions prohibited by the Constitution are regulating transactions that take place in other states and preventing out-of-state milk from being sold in Pennsylvania.
- The Board also enforces the Milk Producers' Security Act, which provides for milk dealer bonding to secure producer milk sales to dealers. The Board holds over \$115 million worth of bonds posted by milk dealers to secure their purchases from producers.
- The Board operates a bulk tank calibration truck to ensure that producer milk is accurately weighed at the farm.
- The Board certifies milk weigher/samplers to further ensure that milk is being weighed and sampled properly so that producers receive correct payment for the milk they ship.

The Milk Marketing Law

- The Law requires the Board to establish minimum producer, wholesale, and retail prices.
- The Law requires the Board to set those prices based on evidence presented at public hearings.
- The U.S. Constitution only allows the Board to regulate transactions that take place in Pennsylvania, so the Board cannot set prices on sales that take place out-of-state.
- The Board cannot prohibit sales of out-of-state milk in Pennsylvania and cannot prohibit in-state businesses from buying or selling milk out-of-state.

Producer Pricing and the Class I Over-Order Premium

- The Board enhances producer revenue through the over-order premium.
- The level and duration of the over-order premium are established based on evidence presented to the Board at public hearings. Among the parties participating in these public hearings are the Pennsylvania Farm Bureau, the Pennsylvania State Grange, the

Pennsylvania Association of Dairy Cooperatives, the Pennsylvania Association of Milk Dealers, the Pennsylvania Food Merchants Association, Progressive Agriculture Organization, National Dairy Producers' Organization, and Board Staff.

- The Law requires the Board to set minimum wholesale and retail prices for Class I milk. In addition, Class I milk is still largely a local market. Therefore, the Board establishes the over-order premium on Class I milk.
- Testimony at over-order premium hearings indicates that the over-order premium has a positive impact on voluntary premiums paid on other classes of milk and on voluntary premiums paid in surrounding markets.
- When the Board evaluates the evidence presented at over-order premium hearings to set the amount of the premium, it attempts to provide the greatest enhanced return to producers without threatening the market for Pennsylvania Class I milk. If the over-order premium is set too high, it can attract out-of-state producer milk and/or out-of-state packaged milk. The out-of-state milk would then displace Pennsylvania Class I milk.
- Because the Board establishes minimum wholesale and retail Class I prices, it can include the over-order premium in the price build-up for those products.
- The Board may not regulate transactions that take place outside Pennsylvania – therefore the over-order premium only applies to milk produced, processed, and sold in Pennsylvania.
- Pennsylvania dairy farmers produce over five times more milk than Pennsylvania consumers drink. Therefore, approximately 15% - 20% of Pennsylvania milk production would qualify for the Class I over-order premium.
- The Class I over-order premium returns between \$1 million and \$2.5 million to Pennsylvania producers **each month**, depending on the level of the premium (compare that to the Board's budget of approximately \$2.5 million per **year**).
- The Board does not collect or distribute the over-order premium. The over-order premium is part of the minimum producer price obligation for milk produced, processed, and sold in Pennsylvania, and is therefore included in the minimum wholesale and retail prices established by the Board. The over-order premium flows back through retail sales to wholesale sales and is then paid by processors to Pennsylvania producers as part of the minimum producer price due. Monthly audits of processors by Board Staff ensure that producers are paid the correct minimum price they are due.
- The Board does not mandate an over-order premium on non-Class I milk because the Board does not establish minimum prices for those products and the non-Class I market is more national in scope.

General Characteristics of the Pennsylvania Milk Market

- Pennsylvania is a milk surplus state – Pennsylvania farmers produce over five times more milk than Pennsylvania consumers drink.
- 80% - 85% of the milk processed in Pennsylvania is produced in Pennsylvania.
- In 2017 Pennsylvania ranked seventh in the country in amount of milk produced.
- Pennsylvania ranks second in the country in the number of dairy farms.
- The number of dairy farms is more important to the health of rural economies than the amount of milk produced. Ten 80 cow farms and dairy farm families will utilize more services and resources than one 800 cow farm.

- In 2017, Pennsylvania had the lowest average herd size in the country at 80 cows per farm. The top six milk producing states in 2017 had significantly larger herd sizes, as shown below.
- Much of the difference in all-milk price between New York and Pennsylvania is attributable to higher milk hauling costs in Pennsylvania. It's less efficient and therefore more costly to pick up milk at a greater number of smaller farms.
- The table below provides information regarding dairy farms in the seven highest milk producing states:

	Number of farms 2017	Percentage decrease in number of dairy farms 2010-2017	2017 production (millions of pounds)	2017 average herd size/farm	2017 production/cow (lbs)	Percentage change in production/cow 2010-2017
California	1,390	19.0	40,683	1,258	22,755	-1.2
Wisconsin	9,090	28.5	30,320	141	23,725	15.0
New York	4,490	16.5	14,912	139	23,936	15.0
Idaho	510	12.8	14,627	1,176	24,378	4.8
Texas	400	32.2	12,054	1,278	23,589	10.4
Michigan	1,750	21.5	11,231	244	26,302	13.0
Pennsylvania	6,570	10.5	10,938	80	20,834	5.0
United States	40,219	24.3	215,466	234	22,941	8.5

Benefits of the Milk Marketing Law

- The benefits were found by the Federal District Court in Harrisburg, based on the reports and testimony of two agricultural economists:
- Without the over-order premium, small dairy farmers would not be viable.
- Without the Law and the over-order premium, small dairy farms that make up the Pennsylvania dairy industry would not survive (because of their size, small dairy farms are especially vulnerable to economic pressure).
- Because of minimum pricing required by the Law, Pennsylvania dairy farmers generally receive a larger share of the retail price than do farmers in unregulated states and retail prices are comparable to generally lower for Pennsylvania consumers.
- Without minimum wholesale prices, smaller processors would be driven out of business by a small number of oligopsonistic and oligopolistic processors (oligopsony = a state of the market in which only a small number of buyers exists for a product; oligopolistic = a state of limited competition, in which a market is shared by a small number of producers or sellers).
- These firms would attempt to force the price of raw milk down while simultaneously placing an upward pressure on the price paid by the consumer. Consumer prices would fall in the short term, but rise heavily in the long term as competition in the marketplace consolidated into a few large powerful firms (this is precisely what happened in California when a law similar to the Milk Marketing Law was repealed).
- If the number of Pennsylvania dairy farms begins to decrease, the agricultural infrastructure built around the industry will also be negatively affected, resulting in loss of dealers, feed

stores, veterinarians, and other businesses that support the dairy industry. Weakening the infrastructure would eliminate still other farms, initiating a cycle of decay eventually damaging portions of Pennsylvania's general economy.

- Without the Milk Marketing Law pricing structure, the number of dairy farms in Pennsylvania would decrease at a greater rate.
- Minimum wholesale prices promote a large and diverse market of milk processors.

Minimum Wholesale and Retail Prices

- The Milk Marketing Law requires the Board to set minimum wholesale and retail prices.
- Minimum resale prices are set based on the average costs of a cross section of dealers and retailers representative of the dealers and retailers doing business in each milk marketing area.
- The Board establishes the average costs based on evidence presented by parties at public hearings. The parties that participate in over-order premium hearings also generally participate in resale price hearings.
- Basing minimum prices on average costs of a cross section provides an incentive to dealers and retailers to minimize their costs. For instance, a dealer with higher-than-average costs selling a product at minimum price will lose money because the minimum price is based on the average cost. Conversely, a dealer with lower-than-average costs selling a product at minimum price will make money because the minimum price is based on the average cost.
- Minimum wholesale and retail prices serve the very important function of preventing potentially destructive and, in the long run harmful to dairy farmers and consumers, price wars.