



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

717/787-4194
717/783-6492

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

E-mail: RA-PMMB@pa.gov

Official General
Order No. A-1003

Posted: September 18, 2019
Effective October 1, 2019

OVER-ORDER PREMIUM

NOW, this 18th day of September 2019, 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 October 1, 2019, and will expire at 12:00 midnight on March 31, 2020.

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 I 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 October 1, 2019, through midnight on March 31, 2020.

(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's 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

Carol A. Hardbarger, PhD, Consumer Member

Date: September 18, 2019

FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
September 4, 2019

FINDINGS OF FACT

1. On September 4, 2019, the Pennsylvania Milk Marketing 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 49 Pennsylvania Bulletin 3852 on July 20, 2019, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1562, dated July 5, 2019.
3. Dean Ellinwood testified on behalf of the Pennsylvania Association of Dairy Cooperatives (“PADC”) as an expert in raw milk marketing, procurement from producers, and sales to handlers. PADC consists of Dairy Farmers of America, Inc., Lanco Dairy Farms Co-op, Inc., Land O’Lakes, Inc., and Maryland & Virginia Milk Producers’ Cooperative Association, Inc. Approximately 3,300 Pennsylvania dairy farmers market their milk through PADC members. Mr. Ellinwood recommended that the over-order premium be set at \$1.00 per hundredweight for the period October 1, 2019, through March 31, 2020.
4. Mr. Ellinwood testified that overall farm milk production in the three major Northeast dairy states, Pennsylvania, New York, and Vermont, continued to decrease overall. Year over year July 2018 to July 2019 Pennsylvania production decreased 68 million pounds, while New York production increased four million pounds and Vermont production increased three million pounds.
5. Mr. Ellinwood testified that 2018 milk prices were “not good” but that it was “good to see substantial year over year price increases during 2019.” Estimated Class IV prices for 2020 are higher than 2019’s Class IV prices. Estimated Class III prices for the first half of 2020 are higher than first half 2019’s Class III prices. Class I utilization continues to decline year over year both in Federal Order I and in Pennsylvania.
6. Mr. Ellinwood testified that PADC would prefer a much higher premium, but that \$1.00 per hundredweight plus the fuel adjuster was reasonable given the current competitive surrounding milk marketing conditions. Mr. Ellinwood testified that when the Board increased the over-order premium by \$0.25/cwt on April 1, 2019, surrounding markets increased by a like amount. He also testified that PADC members have increased premiums to Class I plants outside Pennsylvania since April 1, 2019.
7. Mr. Ellinwood opined that the over-order premium must balance protecting farmers from unprofitably low milk prices with requiring processors to pay competitive rates relative to surrounding markets. He testified that if the over-order premium is raised too high, it may incentivize additional packaged milk from outside Pennsylvania to displace local milk. When local milk is displaced, Pennsylvania farmers do not receive

the intended benefit of the over-order premium, dealers incur greater transportation costs, and the market as a whole is made less efficient.

8. Michael Volinskie testified on behalf of Pennsylvania Farm Bureau as an expert in farm accounting and farm and dairy business analysis. Mr. Volinskie is manager of MSC Business Services (“MSC”). MSC provides services to farmers to assist them economically manage their farm operations, including business analysis and benchmarking. As part of these services, MSC provides historical cost of production figures and projections. Mr. Volinskie recommended setting the over-order premium at \$1.00 per hundredweight for six months.
9. Mr. Volinskie testified that during the period 2011 through 2018, MSC-client dairy farms experienced appreciable annual incomes from dairy production in only three of those eight years. Mr. Volinskie testified that a “dismal financial trend” for MSC-client dairy farms that began in 2015 and 2016 continued in a “very acute way” in 2018 with average losses worse than in 2016. He observed that 2016 was the year that many financial experts highlight as being extremely bad for dairy farmers during the recent economic downturn. 2018 was the fourth straight year that average MSC-client dairy farms failed to show an annual profit. Mr. Volinskie testified that in 2018 MSC-client dairy farms experienced both lower prices and higher costs than in 2016. Mr. Volinskie testified that considering 2018’s data demonstrated a worsened financial situation for many Pennsylvania dairy farmers and lower optimism for their financial future in dairy production.
10. Mr. Volinskie testified that for the period 2011 through 2018 the average yearly net margin for MSC-client dairy farms was \$1,424.00. He testified that business operators in other industries would widely reject those annual returns in operation as successful and that no family today could sustain any meaningful family livelihood from such meager returns. Mr. Volinskie further testified that continuation of such meager returns has a depressing impact on farmers’ future business decisions and enthusiasm to continue making investments in their business. Without enthusiasm for the future, owners are less likely to take on the additional financial risk necessary to modernize their operations and are less likely to promote dairy farming as a career to the next generation, placing the future of dairy farming in Pennsylvania in greater jeopardy.
11. Glenn Stoltzfus testified on behalf of Pennsylvania Farm Bureau. Mr. Stoltzfus is Chairman of Pennsylvania Farm Bureau’s Dairy Committee and is a member of the Farm Bureau State Board of Directors. Mr. Stoltzfus operates Pennwood Farms in partnership with his three brothers. Pennwood Farms milks almost 700 Holsteins and raises approximately 550 heifers. Mr. Stoltzfus and his brothers farm approximately 1,700 acres. Pennwood Farms also does custom crop work and livestock sales, but 80% - 90% of the farm’s income comes from the operation’s milk check. Pennwood Farms ships its milk to Maryland & Virginia Milk Producers Cooperative. Mr. Stoltzfus recommended that the over-order premium be set at \$1.00 per hundredweight for six months.

12. Mr. Stoltzfus testified that his farm's average cost of production for 2018 was \$18.37 per hundredweight. Based on the farm's financial history and his understanding of the operations, Mr. Stoltzfus expected 2019's average cost of production to be very similar to the 2018 average. Mr. Stoltzfus testified that income over feed costs ("IOFC") is a more helpful indicator of the profit margin the farm is getting from dairy production. Pennwood Farms' January through June IOFC was higher each month of 2019 compared to 2018.
13. Mr. Stoltzfus testified that when milk prices are low, the farm looks for ways to cut expenses. He testified that during the past several years, while working in "survival mode" the farm has not hired replacement workers, delayed repairs, and adjusted feed rations. Mr. Stoltzfus testified that as conditions have improved, he's been able to ease up on these restrictions, hiring some new workers and performing some repairs to equipment and structure. He testified, though, that he was not able to hire as many workers as needed and that there were still major repairs that needed to be done.
14. Pennwood Farms grows all of its own corn silage, alfalfa, and hay. Pennwood Farms purchases protein, feed concentrate, and other supplements. Feed concentrate prices are 7% higher than in 2013 and have varied since then, being slightly lower in 2019 than 2018. The price of soybean/canola meal has decreased 20% since 2013. Mr. Stoltzfus testified that both workers' compensation insurance costs and property/liability insurance costs have continued to increase significantly.
15. Mr. Stoltzfus testified that the last few years have been incredibly challenging for the dairy industry, with depressed prices, trade war impacts, and weather all negatively impacting operations. Mr. Stoltzfus did testify, however, that he was starting to see signs of hope within the industry and on his own farm. Recent IOFC increases and steady feed costs have allowed him to lift some living lean measures for the time being. The modest but steady increase in recent producer prices is also a positive development. However, increased 2019 milk checks are probably not enough for many Pennsylvania farmers to financially recover from the losses they've suffered since 2015. Mr. Stoltzfus also testified that many of the factors causing low producer prices seem to be going away and that there seems to be a better balance between supply and demand in the marketplace than in previous years. Mr. Stoltzfus testified that a \$1.00 per hundredweight over-order premium would continue to be helpful to dairy farmers and would not trigger drastic conditions in the market.
16. Arden Tewksbury testified on behalf of Progressive Agriculture Organization and the Dairy Subcommittee of the National Family Farm Coalition; he is the manager of Progressive Agriculture Organization and the Chairman of the Dairy Subcommittee. Mr. Tewksbury has been a School Director of the Elk Lake School District for 59 years and was recently elected to the Board of Directors of the Northeastern Educational Intermediate Unit. Mr. Tewksbury testified that one of the benefits of the Intermediate Unit office was being able to obtain the support of the 21 schools in the Intermediate Unit to officially support returning whole milk to the school lunch program. Mr. Tewksbury recommended that the over-order premium be set at \$1.00 per hundredweight.

17. Mr. Tewksbury testified that the impact of the over-order premium allows dairy farmers to negotiate over-order premiums from out-of-state milk handlers. He testified that Readington Farms in New Jersey was paying its farmers a \$1.00 per hundredweight unqualified premium.
18. Mr. Tewksbury testified that the United States Department of Agriculture, Economic Research Service, testified that the national average cost of producing milk in 2018 was \$21.66 per hundredweight. Mr. Tewksbury further testified that a \$1.00 per hundredweight over-order premium would help some farmers close the gap between the milk price they receive and the cost of producing their milk.
19. Matt Espenshade testified on behalf of the Pennsylvania State Grange. Mr. Espenshade is a seventh generation dairy farmer from Lancaster County milking 70 cows and farming 260 acres. Mr. Espenshade raises his own forages and replacement heifers. His farm has been owned and operated by his family since 1867. Mr. Espenshade is master of Elizabethtown Area Grange. He is also a member of Mount Joy Farmers Co-Op (“Mount Joy”). Mr. Espenshade recommended that the over-order premium be set at \$1.00 per hundredweight.
20. Mr. Espenshade testified that the over-order premium received by Mount Joy is spread across all members regardless of their milk’s class, processor location, and final destination. He testified that approximately 15 to 20 percent of the milk produced by Mount Joy qualifies for the over-order premium. Mr. Espenshade testified that on his most recent pay statement, the amount listed for over-order premium was \$0.045. He further testified that he received a volume premium of \$0.05 and an additional \$0.10 for being under contract to Mount Joy. The blend price Mr. Espenshade received was a net of \$16.63 per hundredweight.
21. Mr. Espenshade testified that due to 2018’s extreme weather patterns, his farm has had to deal with poor quality feeds and shortages of home-grown forages. By late March 2019 it became obvious to Mr. Espenshade that his inventories of home-grown forages would not hold. He tried to make up for shortages of haylage by increasing the volume of corn silage in his ration. He also had to mow alfalfa before it was ready to be harvested. In April Mr. Espenshade released his cows onto his pastures, resulting in environmental mastitis flare-ups and ending a streak of some of the lowest somatic cell counts ever seen on his farm. In early summer, he faced a potential shortage of corn silage, leading to purchases of haylage which put strain on his margins and caused his IOFC to decrease almost one dollar to \$8.64. The more expensive ration, cows lack of interest in going out to pasture due to summertime heat and humidity, and decreased milk prices led to an IOFC of \$4.07 per hundredweight for July.
22. The Board finds that the over-order premium should be set at \$1.00 per hundredweight from October 1, 2019, through March 31, 2020.

In so finding, the Board first notes that every witness supported establishing the premium at \$1.00 per hundredweight for six months.

We find all of the testimony persuasive and credible. The testimony raised several areas of concern that support a \$1.00 per hundredweight over-order premium. These concerns include Pennsylvania's decreasing milk production trend, particularly in comparison to the increasing trend in New York. The Board also notes that Messrs. Stoltzfus, Espenshade, and Volinskie all testified that decreased farm income can lead to decisions detrimental to efficiency being made on farms. Mr. Tewksbury's testimony indicates that current milk prices are insufficient to meet producers' cost of production, which is echoed in the evidence presented by Mr. Volinskie.

Mr. Stoltzfus and Mr. Volinskie also testified that dairy farmers have experienced negative financial situations since 2015, with Mr. Volinskie noting that the financial situation has a depressing impact on farmers' future business decisions and enthusiasm for the future, placing the future of dairy farming in Pennsylvania in greater jeopardy.

Mr. Ellinwood testified that it is important to establish the over-order premium at a level that enhances returns to Pennsylvania producers and is competitive with premiums in surrounding markets. He testified that \$1.00 per hundredweight was reasonable given current surrounding competitive market conditions.

When the Board establishes the over-order premium level, we attempt to set that level at the point that provides the greatest return to producers without threatening their ability to market their milk. Based on the concurring testimony, evidence, and recommendations provided by all of the parties, we believe it is appropriate to establish the over-order premium at \$1.00 per hundredweight from October 1, 2019, through March 31, 2020.

CONCLUSIONS OF LAW

1. The September 4, 2019, hearing on the over-order premium 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 I 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

Carol A. Hardbarger, PhD, Consumer Member

Date: September 18, 2019

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