



Commonwealth of Pennsylvania

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No. 1576
May 12, 2020

BULLETIN

ON-FARM MILK DUMPING UPDATED ENFORCEMENT GUIDANCE

Board Staff circulated Bulletin 1575 on April 13, 2020, to explain Staff's enforcement position regarding on-farm dumping of milk for which processors had no market. Bulletin 1575's enforcement position was based on Staff's knowledge and understanding of the situation at that time. The market disruptions caused by the COVID-19 pandemic are dynamic and unpredictable. In the month since Bulletin 1575 was circulated, Staff has discussed the market disruptions and their impact on the industry with producers and processors.

Since mid-March 2020 Staff has spoken with representatives of major and small retailers, processors, producers and elected officials. What Staff originally thought might be somewhat consistent COVID-19 impacts across county and regional lines has changed and led to a need to better define the producer-processor relationship in the context of the pandemic and its impacts:

- The pandemic and resulting market disruptions have impacted processors and manufacturers in various ways.
- Some processors have lost markets, such as school and restaurant sales.
- Balancing outlets and manufacturers have also lost markets. Some are receiving less, or no, milk. At least one located in Pennsylvania has closed.
- Because of lost markets and balancing outlets, some processors simply have more milk available than they can use. On the other hand, some processors could use more milk. These processors are finding each other and making necessary arrangements to move producer milk where it is needed.
- Each processor's operation and financial situation is unique. Some processors are able to absorb some of the cost of milk available to them that they cannot use. Other processors, despite their best efforts, continue to find themselves with milk for which they cannot find an alternate home and for which they cannot pay any price.
- Processors do not want to terminate producers. In some cases, processors who have not been able to find an alternate market for producer milk have asked all of their producers to share in the financial burden and dump some of their milk. For these processors, if all of their producers dump some of their milk, no producer will be terminated. All producers keep their market because all producers are willing to cooperate in sharing the burden.
- To be fair to all of their producers, though, processors can only keep producers who will share the burden of the market disruptions, lost markets, and lost balancing outlets. Processors have the option to terminate producers who do not want to share the burden.

- To date, producers who have been asked to share this burden and to dump milk have dumped milk and no producer has been terminated to Staff's knowledge.
- It is important to remember that processors that have asked producers to dump milk have done it as a last resort because there is no market for the milk and the processor is not able to pay any price for the milk.

In addition to knowledge gained regarding the producer-processor relationship since the onset of the pandemic, Staff has observed that processors' challenges go beyond the market supply and demand:

- In addition to dealing with market disruptions and related issues, some processors are coping with personnel issues. Processor employees have contracted COVID-19 and/or are caring for family members who have contracted COVID-19.
- Due to the many issues facing milk dealers related to the pandemic, they have had various levels of difficulty obtaining the signed producer agreements required by Bulletin 1575.

Because of the constantly evolving market situation and milk dealer staffing issues, Board Staff is updating Bulletin 1575's enforcement guidance.

In lieu of the producer-signed agreements outlined in Bulletin 1575, processors may instead provide a confirmatory letter to producers.

- In order to provide a confirmatory letter, the processor must speak to the producer and explain the circumstances specific to the processor that require asking the producer to agree to share in the burden by dumping milk.
- The confirmatory letter will be sent after an agreement exists between producer and processor that the producer will share in the burden by dumping milk.
- The confirmatory letter must reference the date of the processor-producer discussion and the substance of the discussion.
- The confirmatory letter must provide at least 10 days from receipt by the producer for the producer to notify the processor of any questions, concerns, or objections.
- A copy of each form of confirmatory letter sent by a processor to a producer shall be provided to Board Staff, along with a list of the producers who received the letter.
- The processor may terminate the producer with a 28-day notice should no agreement be reached, or the processor and producer may mutually agree to terminate the relationship in a shorter period of time.

PENNSYLVANIA MILK MARKETING BOARD



Carol A. Hardbarger, PhD, Secretary

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