



**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-1008

Posted: September 23, 2020  
Effective October 1, 2020

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### **OVER-ORDER PREMIUM**

NOW, this 23rd day of September 2020, 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, 2020, and will expire at 12:00 midnight on March 31, 2021.

#### **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, 2020, through midnight on March 31, 2021.

(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.

**SECTION III**

All parts of Official General Order A-893 not inconsistent with this order shall continue in effect.

PENNSYLVANIA MILK MARKETING BOARD

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Robert N. Barley, Chairman

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James A. Van Blarcom, Member

Date: September 23, 2020

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**OVER-ORDER PREMIUM HEARING**  
**September 2, 2020**

FINDINGS OF FACT

1. On September 2, 2020, 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 50 Pennsylvania Bulletin 3807 on July 25, 2020, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1578, dated July 9, 2020.
3. Bryan Stocks testified on behalf of the Pennsylvania Association of Dairy Cooperatives (“PADC”). PADC members are Maryland & Virginia Milk Producers’ Cooperative Association, Inc.; Lanco Dairy Farms Co-op, Inc.; Land O’Lakes, Inc.; and Dairy Farmers of America, Inc. (“DFA”). Mr. Stocks is the Director of Fluid Milk Marketing for DFA. Mr. Stocks recommended that the over-order premium be set at \$1.00 per hundredweight for the period October 1, 2020, through March 31, 2021.
4. Mr. Stocks testified that Pennsylvania milk production increased approximately 200,000 pounds per day from May 2020 to June 2020. He also testified that year-over-year, comparing June 2019 to June 2020, milk production in Pennsylvania, New York, and Vermont increased 0.2percent. Mr. Stocks also testified that customer orders continue to fluctuate week to week due to uncertainty in the market because of the COVID 19 pandemic. He testified that fall demand has been hard to predict with many school districts and states still developing re-opening plans.
5. Mr. Stocks testified that class prices started the year strong but have been trending down for the last several months. He also testified that Class IV futures prices are showing an upward trend for the second half of the year, but are still projected to be below previous years. Mr. Stocks further testified that Federal Order 1 Class I milk volume continued to drop from January 2018 through June 2020, but did slightly increase in June 2020 compared to June 2019; he testified the June 2019 to June 2020 increase may be attributed to USDA programs, milk donations, and overall uncertainty due to the pandemic.
6. Mr. Stocks testified that there has been a lot of uncertainty in the milk market throughout the year and that the uncertainty will continue through the end of 2020. There are unknowns as to if and how schools will reopen, leading to uncertainty in dairy demand for school milk. He also testified that Northeast dairy processors are continuing to experience declines in fluid milk sales. Mr. Stocks testified that taking many factors into consideration, including milk production, price forecasts, and uncertainty caused by the pandemic, PADC recommended that the over-order premium be set at \$1.00 per hundredweight from October 1, 2020, through March 31, 2021.

7. Amanda Rife testified on behalf of PADC. Ms. Rife is the Eastern Regional Member Relations Manager for Land O'Lakes. She recommended that the over-order premium be set at \$1.00 per hundredweight from October 1, 2020, through March 31, 2021.
8. Ms. Rife testified that given the uncertainty of the future in the dairy industry, now is not the time to either increase or decrease the over-order premium. Ms. Rife testified that 2020 started out very hopeful for dairy farmers, with supply and demand marketing dynamics beginning to stabilize, milk prices appearing to rebound after several years of depressed pricing, good forage quality from the 2019 harvest, and milk per cow on the rise. Then in March 2020, COVID 19 arrived with its effects on milk markets.
9. Ms. Rife testified that the June 2020 Blimling and Associates report showed May milk production decreasing 3.7 percent year-over-year in New York, Pennsylvania, and Vermont. Pennsylvania production decreased 3.0 percent, with decreases in daily milk per cow and number of cows. However, Ms. Rife testified that by July Northeast production had increased 4.0 percent year-over-year and milk per cow increased 4.7 percent.
10. Ms. Rife testified that the most uncontrollable and unknown variable for the second half of 2020 is COVID's impact. Many Pennsylvania schools have not opened at full population levels and the food service industry faces capacity restrictions. In addition, logistical challenges with transportation, food insecurities and hoarding, employee health, increased unemployment, and the overall ability to remain open from the farm to fork levels of production throughout the dairy industry add to the uncertainty. Ms. Rife testified that federal, state, and local subsidy programs within the dairy industry have been important during this time of depressed pricing and COVID-related market instabilities, but that there is concern as to what will happen to many Pennsylvania farmers when government funding expires.
11. Ms. Rife testified that milk marketers have had to implement base or quota systems to deal with indeterminable COVID impacts. She testified that prior to COVID, the base system had generally been used to manage over production during the spring flush, but that now the base system was being used as a tool during abnormal times of the year to help milk supplies meet the unknown COVID market demands. Ms. Rife testified that no one can predict the long-term implication of these programs and how they might impact Pennsylvania's dairy industry going forward.
12. Ms. Rife testified that, to provide stability and consistency in the face of the many variables she noted, the over-order premium should be maintained at \$1.00 per hundredweight from October 1, 2020, through March 31, 2021.
13. Wayne Brubaker testified on behalf of Pennsylvania Farm Bureau as an expert in farm business analysis and producer cost of production. Mr. Brubaker is a consultant and senior accountant for MSC Business Services, PFB Members' Service Corporation. He

recommended that the over-order premium continue at its current level of \$1.00 per hundredweight from October 1, 2020, through March 31, 2021.

14. Mr. Brubaker testified that MSC-client dairy farms experienced positive annual incomes from dairy production in only two of the past eight years. In 2018, MSC-client dairy farms had a negative net margin of \$2.17 per hundredweight, which marked the fourth consecutive year of a negative net margin. 2019 also showed a negative net margin of \$0.10 per hundredweight, for five straight years of negative net margins.
15. Mr. Brubaker testified that the five-year downturn has had a severe financial impact on Pennsylvania dairy farms. He testified that it is impossible for businesses, much less families, to sustain a livelihood given the impact. Mr. Brubaker also testified that continuation of the dairy decline has a depressing impact on farmers' future business decisions and enthusiasm to continue making investments in their businesses. He testified that without enthusiasm for the future, owners are far less likely to take on the additional financial risk necessary to modernize their operations and are also far less likely to promote dairy farming as a career to the next generation, placing the future of dairy farming in Pennsylvania in greater jeopardy.
16. Mr. Brubaker testified that while 2019 generated a marked improvement from 2018, net incomes still posted negative numbers for the average MSC dairy client, with many hoping 2020 would finally be the year to end the string of negative net margins. However, COVID upended any hopes of a lasting recovery, with many farmers dumping milk, reducing production, and making difficult choices under immense uncertainty. Mr. Brubaker testified that even as dairy markets showed some improvement, external and unexpected costs, such as negative producer price differentials, removed meaningful returns for many dairy farmers.
17. David Graybill testified on behalf of Pennsylvania Farm Bureau. Mr. Graybill serves on Pennsylvania Farm Bureau's Dairy Committee and Board of Directors. Mr. Graybill operates Red Sunset Farms in Mifflintown. Red Sunset Farms currently milks 64 registered Holsteins and raises around 75 replacement heifers. Mr. Graybill produces corn, soybeans, hay, and small grains, approximately 64 percent of which feed his dairy cattle, with the rest sold on the open market. Red Sunset Farms is a sole proprietorship, with one full time and two part time employees. Mr. Graybill markets his milk to Maryland and Virginia Milk Producers Cooperative, with about two-thirds of his farm's 2019 gross income generated by his milk check. Mr. Graybill recommended that the over-order premium be set at \$1.00 per hundredweight for six months.
18. Mr. Graybill places a high priority on managing an environmentally friendly operation and is constantly adding and improving conservation practices to reduce his farm's environmental footprint.
19. Mr. Graybill is a client of MSC Business Services and fully uses the tax accounting and preparation, business accounting, and business analysis services it provides. Mr. Graybill testified that 2018 was the most recent year that his farm's income and cost were analyzed and compared through MSC's Dairy Profitability Comparison. Red

Sunset Farms' total income from all sources in 2018 was substantially higher than comparably sized farms and the top 10 percent. Mr. Graybill testified, though, that total income from milk production was substantially under his farm's production and administrative costs. He also testified that annual gross revenue for 2018 was the lowest generated by his farm during the 2015 through 2019 period, with the farm's total income from all sources at a breakeven level.

20. Mr. Graybill testified that the price he received for milk in 2019 was \$2.28 per hundredweight higher than what he received in 2018. He testified that the increased milk revenues, income from crop sales, crop insurance payments, and payments received from USDA's Market Facilitation and Margin Protection Programs helped his farm achieve modest profit in 2019.
21. Mr. Graybill testified that he, like many farmers, was hoping 2020 would be the year that the dairy industry would see recovery. However, COVID upended agricultural and dairy markets. He testified that over the last few months dairy farmers have been asked to dump milk and reduce production, and have been forced to make difficult decisions in a very uncertain situation. Mr. Graybill also testified that as dairy markets started to recover and prices started to increase, negative producer price differentials offset potential increases and led to large deductions on milk checks. Mr. Graybill further testified that so far this year, his average monthly gross milk check is less than what he received in 2019, with a 19 percent decrease for the months of April through June 2020 when compared to April through June 2019.
22. Mr. Graybill testified that due to his farm's smaller size he had to learn to become very efficient and during the tough economic times of 2016 through 2018 had to be even more efficient. Among the adjustments he implemented, Mr. Graybill testified that buying minerals monthly, rather than in bulk, has reduced the cost of purchased minerals. He also tested different silage varieties of corn, changed the silage he fed his cows, and saw an increase in fat and components, increasing income from milk production.
23. Mr. Graybill testified that he regularly replaces cows when their production starts to lag. This allows him to send healthy, high weight cows to market, resulting in a 40 percent cull rate with livestock sales as an income stream. Mr. Graybill testified, however, that COVID-related challenges on the processing side led to him not being able to move cull cows for a few weeks in May, resulting in increased feed expenses. He also received several hundred dollars less per animal than he had expected.
24. Mr. Graybill testified that the last few years were difficult but 2020 has brought challenge after challenge compressed into a relatively small period of time. He remains concerned about market volatility, crop conditions due to dry weather, and the long-term impacts of COVID on his farm and the dairy industry as a whole. Mr. Graybill testified that in 2019 470 Pennsylvania dairy farms ceased dairying. He is concerned about farmers surviving the challenges the industry currently faces. Mr. Graybill testified that while the over-order premium cannot address these challenges or fix the

other issues in the dairy industry, it can and does provide assistance for those producers whose milk qualifies for the premium

25. 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 \$1.25 per hundredweight.
26. Mr. Tewksbury testified that Readington Farms in New Jersey increased its premium to \$1.25 per hundredweight. He testified that in order to maintain some equity in the premium structure in Pennsylvania, the over-order premium should also be set at \$1.25 per hundredweight.
27. The Board finds that the over-order premium should be set at \$1.00 per hundredweight from October 1, 2020, through March 31, 2021.

In so finding, the Board relies on the credible and persuasive testimony of Mr. Stocks, Ms. Rife, Mr. Brubaker, and Mr. Graybill. Their testimony touched on several issues that support a \$1.00 per hundredweight over-order premium. Among those issues are school milk demand, continued fluid milk sales decline in the Northeast, lower price forecasts, and general uncertainty caused by the COVID pandemic. In addition, we also heard credible and persuasive testimony from Mr. Brubaker regarding the adverse financial results for MSC-client dairy farms for the past five years.

The Board also agrees with Ms. Rife that maintaining the over-order premium at \$1.00 per hundredweight is important to provide stability and consistency in light of the issues and uncertainty currently facing the Pennsylvania dairy industry.

While we find Mr. Tewksbury's testimony credible, we are more persuaded by the testimony of the witnesses recommending the over-order premium be set at \$1.00 per hundredweight.

#### CONCLUSIONS OF LAW

1. The September 2, 2020, 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

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Robert N. Barley, Chairman

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James A. Van Blarcom, Member

Date: September 23, 2020

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