

# *Pennsylvania Association of Dairy Cooperatives*

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*Dairy Farmers of America, Inc.*  
*Lanco Dairy Farms Co-Op, Inc.*  
*Land O' Lakes, Inc.*  
*Maryland & Virginia Milk Producers Cooperative Assn, Inc.*

April 25, 2023

Honorable Elder Vogel, Jr.  
*Majority Chair, Senate Agriculture and Rural Affairs Committee*  
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362 Main Capitol Building  
Harrisburg, PA 17120-3047

Honorable Judith L. Schwank  
*Minority Chair, Senate Agriculture and Rural Affairs Committee*  
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## **Written Testimony on the Pennsylvania Milk Marketing Board Over-Order Premium Pennsylvania State Senate Agriculture and Rural Affairs Committee**

**Troye Cooper**  
**Chairman – Pennsylvania Association of Dairy Cooperatives**  
**Testifying on behalf of the Pennsylvania Association of Dairy Cooperatives**

Majority Chair Vogel, Minority Chair Schwank, and Members of the Committee:

Good morning, my name is Troye Cooper. My business address is 1985 Isaac Newton Square West, Reston, VA 20190. I am currently the Director of Operations, Milk Marketing and Member Services for Maryland and Virginia Milk Producers Cooperative Association, Inc. I am also the Chairman of the Pennsylvania Association of Dairy Cooperatives (PADC). Members of the PADC include Maryland & Virginia Milk Producers' Cooperative Association, Inc., Lanco Dairy Farms Co-op, Inc., Dairy Farmers of America, Inc. and Land O'Lakes, Inc.

Thank you for the opportunity to testify today on behalf of not only PADC, but the nearly 3,500 dairy farms in Pennsylvania who market their milk through PADC members. Dairy farmers, dealers (also known as processors or distributors), along with retailers work together to form the supply chain that ensures wholesome high-quality milk from the farm is available to consumers' tables every day. Dairy farmer cooperatives play an integral role in this "three-legged stool" that is the dairy industry in Pennsylvania.

As a brief background, cooperatives are owned and operated by dairy farmer members who pool their production of milk together to market as one collective unit. Said differently, the cooperative is the dairy farmer. The cooperative provides many marketing services for its member-owners which often go beyond the capabilities of an individual farm, such as providing field services, quality testing and troubleshooting, training, hauling and logistics optimization, and producer payroll among other things. As a result, the cooperative model allows dairy farmers, particularly those farmers with smaller herds and in certain geographies, to bargain more efficiently and effectively.

In addition, cooperatives also provide a vital service to the dairy industry in the form of balancing. As you are all aware, milk is a perishable product and requires timely processing to maintain its freshness. Just like any other product, demand for milk at the retail and therefore processing level often fluctuates greatly from day-to-day, week-to-week, month-to-month and even season to season. Cooperatives and their member farms stand at-the-ready to respond to those swings in processor demand, often on short notice, so that their orders can be filled, and customers' needs are met each day. This balancing role cannot be understated, and it remains a bedrock in Pennsylvania's dairy industry.

The Over-Order Premium (OOP) was first established by the Pennsylvania Milk Marketing Board in 1988 as part of a drought relief order (OGO A-856). At that time, extreme drought conditions in the Midwest and Pennsylvania had increased feed prices dramatically, which in turn drove producer returns down to incredibly low levels. With the best of intentions in mind, the Milk Marketing Board established the Over-Order Premium to aid Pennsylvania's dairy farmers to help offset those higher costs during the drought. Importantly, this Order applied equally to all Class I producers, whether they were independent or cooperative members.

In the decades following the Over-Order Premium's implementation, Pennsylvania has not been immune from decreasing fluid milk demand from consumers, which has been consistent with the nationwide trend. As a result, some flaws with the current Pennsylvania Over-Order Premium structure have become evident.

The first is that the Over-Order Premium does not treat all Pennsylvania dairy producers fairly and equitably. As originally envisioned, the Over-Order Premium was intended to assist all dairy producers in Pennsylvania. However, today much of this benefit only flows to a small percentage of dairy producers within the Commonwealth. According to some of the most recent data available, for the first six months of 2021, 641 independent dairy farms sold milk to a Pennsylvania processor for Class I use which was subsequently sold at retail within the state. Those 641 farmers received a total of \$2,918,482.00 in Over-Order Premium payments for the first six months of the year with an average payment per farm of \$4,553.00. During the same period, cooperatives and their members shared \$3,619,636.00 in Over-Order Premium payments. Even using a very conservative estimate of 4,000 cooperative farms, the average payment to cooperative members would have been \$905.00 per farm.

This stark disparity was clearly not the intention of the Over-Order Premium when it was envisioned in 1988, particularly because Pennsylvania maintains a fully integrated milk marketing system whereby, in order to maintain a Class I market, there must be viable and ample high-quality supply along with alternative processing options for milk that may otherwise be destined to other classes.

Allow me to emphasize high-quality. While some might have you think that the independent farms that supply milk directly to Class I processors must meet quality standards that are different or superior to those being met by cooperative members, that is simply not true. All Pennsylvania farmers, including those cooperative members that have been placed on “stand-by” must meet the same high standards for the processors to be successful. This has not only become a priority for cooperatives, but appropriately a requirement for all milk producers.

The second flaw that has been discovered with the Over-Order Premium’s structure is that the amount charged to Pennsylvania consumers is greater than the amount distributed back to Pennsylvania’s dairy farmers. It’s a fact that non-Pennsylvania milk is sold at retail to Pennsylvania consumers. However, the Over-Order Premium’s structure requires that premiums be assessed on these transactions. Because the premium is added to the Pennsylvania minimum producer price that a dealer must pay to a producer, it flows upward through the minimum price build-up into the wholesale minimum price and finally into the minimum retail price that consumers must pay.

The Over-Order Premium therefore mandates that every consumer pay the premium at retail when they purchase fluid milk, however the premium only goes back to Pennsylvania dairy farmers if the milk was produced, processed, and sold entirely within Pennsylvania. The result is that Pennsylvania consumers pay a premium which they think is going back to Pennsylvania dairy farmers when in actuality Pennsylvania dairy farmers do not see a dime of it if the milk purchased came from out of state.

As a related item, the third flaw the dairy community has seen with the Over-Order Premium’s structure is that it can incentivize purchasing or selling milk across state lines to avoid the premium being assessed on the transaction.

As it stands today, the Over-Order Premium is flawed in at least those three specific aspects. History has established the fact that the market will support and this Commonwealth’s dairy farmers deserve a premium over and above the federally established minimum price. To be clear, today PADC does not advocate for the immediate elimination of the Over-Order Premium. We support the development of a more equitable alternative. For us to fully support a regulated and mandated Milk Marketing Board structured premium, the concerns raised above must be addressed and rectified for the benefit of Pennsylvania’s dairy community as a whole.

The solution is going to take legislative action. At present, the Milk Marketing Board is limited in what it can do to oversee the collection and distribution of the Order-Order Premium under the Milk Marketing Law. PADC would welcome legislation amending the Milk

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Marketing Law that provides the Milk Marketing Board with the ability to distribute any regulated and mandated premium to Pennsylvania dairy farmers in a fair and equitable manner according to criteria developed through the PMMB's evidentiary hearing process. Surely, not all parties will agree on what that criteria should be, however the PMMB's public hearings can be the forum for every interested party to be heard and for the distribution criteria to be evaluated and established.

Indeed, the Milk Marketing Board is the independent state agency primarily responsible for administering the Milk Marketing Law and the economic regulation of milk within the Commonwealth. In many ways, the PMMB serves as the ear of the dairy industry. Legislation amending the Milk Marketing Law to provide the PMMB with the ability to change how a premium for PA dairy farmers is collected and distributed would be a step in the right direction.

On behalf of the nearly 3,500 Pennsylvania dairy farmers who market their milk through PADC members, I would like to thank you for your time this morning and your consideration of the issues surrounding the current Over-Order Premium.

Respectfully submitted,

Troye Cooper, Chairman  
Pennsylvania Association of Dairy Cooperatives