

**Senate  
Agriculture & Rural Affairs Committee**

**Over Order Premium Structure Review**

Testimony of Acting Secretary Russell C. Redding

Presented on behalf of the Commonwealth of Pennsylvania  
Department of Agriculture

April 25, 2023

Good morning, Chairman Vogel, Chairwoman Schwank, and committee members:

Thank you for the opportunity to testify today regarding the Pennsylvania Milk Marketing Board (PMMB) Over-Order Premium structure review, on behalf of the Pennsylvania Department of Agriculture. Our testimony recommends a way to bring fairness and equity to the collection and distribution of the government mandated premiums.

The over-order premium came to life in the late 1980s as a way to help struggling dairy farmers who were dealing with drought conditions and lack of acceptable forage to feed their animals. Seeking ways to help the industry, PMMB devised a system that would provide farmers additional dollars through a premium paid by consumers. At its core, this noble effort tied the economic activity of consumers to greater stabilization of the dairy industry. The PMMB made a critical connection between consumers and our Pennsylvania dairy farmers.

I believe the wisdom of this model remains true today, however the marketplace changes that have occurred in the ensuing decades requires a different approach. Consumers are buying less fluid milk than when the Over-Order Premium was enacted, and this is resulting in less dairy farmers benefiting from the premium. This dynamic coupled with fewer in-state processors and more out-of-state milk flowing into the state, has occurred while all consumer fluid milk sales mandated to carry the premium have converged to produce a system where all consumers pay a premium for their milk. However, a significant portion of the proceeds fail to reach the intended beneficiaries -- Pa dairy farmers.

All dairy farmers across our state are facing the same pressures on input costs, interest rates, labor, and the other factors that impact their bottom line. Yet, our current Over-Order Premium system creates an inequity in the dairy industry between neighboring producers. Less than 700 of our 5,200 dairy producers receive the majority of the benefits in the premium, while the remainder receive little to no benefit from dollars paid by all Pennsylvania consumers. Dairy is critical to Pennsylvania, and we need to find a way to lift all aspects of the industry.

For the Over-Order Premium to work its way back to Pennsylvania dairy farmers, that milk must be produced, processed and sold in Pennsylvania. That means milk coming from a Pennsylvania farm, processed in Pennsylvania, and sold at a Pennsylvania store.

In May of 2022, the Pennsylvania Department of Agriculture petitioned the Pennsylvania Milk Marketing Board to hold a hearing (s) to consider alternatives to the Over-Order Premium as currently imposed and administered by the Pennsylvania Milk Marketing Board. We asked for consideration on the following issues:

**A. Whether the OOP system as currently imposed and administered by the Board meets the following criteria:**

1. Premium dollars are uniformly and fairly distributed among all Pennsylvania dairy producers based upon volumes of milk shipped, regardless of where milk is shipped or how milk is utilized.
2. The amount charged to Pennsylvania consumers is substantially equal to what is distributed back to Pennsylvania dairy farmers.
3. The distribution system does not provide incentives or means to avoid payment to Pennsylvania dairy farmers by purchasing or selling milk across state lines.

**B. Are there alternative methods available to the Board under the authority of the Milk Marketing Law to impose a charge on Pennsylvania dairy products at the retail level that could be collected and distributed to Pennsylvania dairy farmers?**

1. Would these alternatives meet the criteria set forth in (A) above?
2. Would these alternatives “extract” equivalent (or more) dollars from the retail marketplace as the current OOP system?

**C. Are there alternatives to the distribution of premium dollars to dairy farmers that would enhance the overall viability of the dairy industry in the Commonwealth?**

**While the Board has held several hearings on this request, the current system remains in place.**

The Over-Order Premium is structured as part of the pricing structure of Pennsylvania milk. All fluid milk sold in Pennsylvania carries with it a price build-up, established by the Pennsylvania Milk Marketing Board, that contains the Over-Order Premium. That Over-Order Premium is applied to every gallon of milk sold in Pennsylvania stores, regardless of where milk comes from. Those premiums are factored into the price that retailers will charge consumers. We believe at least 40 percent of the premiums paid by consumers never reach our state’s dairy

farmers. That level of stranded premium is unconscionable. It is unfair to our state's dairy farmers and to the consumers who paid the price at retail.

To calculate the total economic impact of the Over-Order Premium, we are missing critical data through our inability to track sales. Through the work of the PMMB, we know how much is paid out to dairy farmers in the form of Over-Order Premium payments. For sake of illustration, let's call that item A. Item B is the amount of money that might become stuck in the system and never makes it way to a farmer's milk check. Item C is the total amount of premiums that consumers are paying. By shifting to a different point of collection for the premiums, and distribution, all numbers in that formula will become clearer and we then can have an informed conversation about how to best support our dairy industry.

We have discussed these inequities during previous hearings before the Milk Marketing Board and with stakeholder groups across the industry. We understand that not all sides can agree on every facet of a solution, but we strongly believe the current system is unsustainable.

We appreciate the Senate Agriculture & Rural Affairs Committee holding this hearing. It's important for Senators, stakeholders, and the public to understand this issue in greater detail, appreciate the history of why the Over-Order Premium came to be, and the need to identify solutions that will allow Pennsylvania to continue to provide market-based support for our dairy industry.

The time has come to orchestrate the next chapter in how we support our dairy industry. That would mean codifying our three-part principle for reforms to the Over-Order Premium into law so that we can continue to provide additional resources to the dairy industry at the farm and processing level. During our hearing before the Pennsylvania Milk Marketing Board in May 2022, the Department raised questions about the equity of the current system and the ongoing opportunity for consumer-paid premiums to not ever get back to Pennsylvania dairy farmers. It's important to continue to carry the conversation forward, but also come to the table with a framework solution.

First, we recommend removing the Over-Order Premium from the price buildup as established by the Board and instead assess the premium at the point of retail. That premium, obtained by retailers across Pennsylvania, would be remitted to the state and set aside in a designated fund specifically for the aid of the Pennsylvania dairy industry. From there, the state would be able to provide support to dairy farmers and dairy processors from premiums paid at retail. The Pennsylvania Milk Marketing Board would be responsible for setting the premium, but the collection responsibility would need to occur at retail.

Changing the point of collection and distribution would ensure:

- Uniform distribution to all dairy producers.
- A return of all premiums back to Pennsylvania dairy
- Fairness to the Pennsylvania consumer.

Two important changes will need to take place. First, we will need a full understanding of how much milk is sold at retail. To make that possible, we will need our retail community to routinely supply sales data. The second will be having our Department of Revenue collect premium dollars paid at the retail level. Once those components are in place, we can have an informed conversation about how to then distribute those dollars back to the dairy community. These concepts have been articulated in the Senate, through Senate Bill 840 and Senate Bill 841 last session and through proposals approved by the House last year. Once those pieces are in place, we have a wealth of options at our disposal to provide direct support to the dairy industry in terms of premiums paid to producers and assistance to processors.

Our intent is to help both the farmer and the processor as we suggest changing the point of distribution and aiding the dairy industry. Processors are an important component to Pa dairy. We believe a portion of this revamped premium can be allocated to dairy processors to make upgrades to their facilities. Over a two-year period, Pennsylvania awarded \$10 million in dairy development grants to processors and farmers who sought to reinvigorate their businesses through value-added products or infrastructure upgrades. Those grants were made possible from funds through the Commonwealth Financing Authority. By using a portion of the premiums collected from consumers, Pennsylvania could have the opportunity to reinvigorate our dairy industry while still distributing a premium to our dairy farmers.

The General Assembly would need to approve a solution to this inequity. Our hope, as the result of these hearings, is that all dairy stakeholders come to the table to discuss how we equitably distribute consumer-paid premiums back to farmers and eliminate the problem of those premiums being stranded in the marketplace and never reaching a farmer's milk check. We welcome further conversations with the Senate and stakeholder groups to craft legislative solutions that will create an equitable collection and distribution of premiums.

We know this will take time, but the current system is simply unsustainable. Without change, we risk losing the opportunity to use market-based premiums to support our dairy farmers and processors.

Let me end with one final thought: the Department of Agriculture believes the Pennsylvania dairy industry has a bright, strong, future. We have an unmatched competitive advantage: a strong heritage, an enviable proximity to major markets, excellent climate for growing forage, and strong processing capacity.

Pennsylvania is blessed with independent fluid milk plants that produce a wholesome product for consumers of all ages. We also have the strength of cooperative milk processors who are meeting the consumer demand for fluid milk, cheese, yogurt, and innovative dairy products. Fundamental to both of those markets are dairy farmers who are committed to producing quality milk for the marketplace. And yet the Over-Order Premium largely supports only one type of use and is not distributed to the benefit of every Pennsylvania dairy farmer.

Our role in the Department is to be the voice for everyone involved in dairy, including the farmer, the processor, and the consumer. We can't forget about that final component. For decades we have asked the Pennsylvania consumer to pay a little bit more at retail with the intent of aiding our dairy farmer. A shift in how we collect and distribute those premium dollars will bring transparency into the system and achieve the goal of assisting the whole of the dairy industry.

We look forward to working on a solution that builds a new structure for milk premiums. We are committed to advancing legislative solutions that will reimagine the way that we support the dairy industry. It is past time to create a new system that brings equity and transparency to the dairy farmer and the consumer. Thank you.