

PENNSYLVANIA MILK MARKETING BOARD STAFF TESTIMONY BEFORE THE
SENATE AGRICULTURE AND RURAL AFFAIRS COMMITTEE

Gary G. Gojsovich

April 25, 2025

INTRODUCTION

Good morning, Chairman Vogel, Minority Chair Schwank, and members of the Senate Agriculture and Rural Affairs Committee. My name is Gary Gojsovich. I am employed by the Pennsylvania Milk Marketing Board (PMMB) where I have over 20 years of experience as an Audit Supervisor. In that capacity, I supervise a staff of auditors and accountants who review the records of dealers to ensure producers have been paid accurately and timely; the Over-Order Premium (OOP) is one of the items we ensure accurate and timely payment of to producers.

BACKGROUND

The Inception of the Over-Order Premium

The Pennsylvania Over-Order Premium (OOP) has its origins in a lengthy 1980s drought. Dairy farmers represented by the Pennsylvania State Grange, the Pennsylvania Farmers' Association, and the Pennsylvania Farmers' Union petitioned the Board for some form of relief following some attempts to address needs through legislation.

The petitions from the respective organizations were submitted to the Board during its regularly scheduled Sunshine Meeting on July 13, 1988 and requested a hearing to decide whether the Board should increase the price that Pennsylvania producers received for milk by the hundred-weight (100 pounds, cwt). The hearing occurred on July 27, 1988.

Testimony presented to the board during that July 27th hearing was found by the Board to be an accurate representation of the economic impact of the drought conditions in 1988. On

August 10, 1988, the Board issued Official General Order (OGO) A-856—the Drought Relief Order for All Milk Marketing Areas—to be effective on September 1, 1988. The amount was set at \$1.05 per hundred-weight (100 pounds of milk or cwt) and it was to be effective through February 28, 1989.

The Premium Becomes Restricted to PA Produced, Processed and Sold

OGO A-893, effective November 1, 1996, is referred to as the Over-Order Premium Base Order. It also states specifically that the premium will be paid to PA producers and is the order that established the “PA Produced, Processed and Sold” payment obligation still in force today.

OGO A-999, effective October 1, 2017, established a diesel fuel add-on to the OOP which is adjusted monthly based on the average of the diesel prices published by the U.S. Energy Information Administration (EIA). The current OOP is \$1.00/cwt with a fuel adjustment of \$0.44/cwt for April. It will expire on June 30, 2023.

The Over-Order Premium is adjusted periodically based on evidence received at public hearings held by the Board. By maintaining minimum retail and wholesale prices, destructive price wars at those levels are eliminated and there is no pressure to reduce farm prices to meet competition. The key to the program is that Pennsylvania maintains the authority to regulate all sales of milk where possession transfers within the state’s borders.

It is also important to remember that the only transactions the Board may regulate are those that occur within our borders.

At Over-Order Premium hearings, the Board typically hears testimony from dairy producer cooperatives and dairy farmers representing a variety of organizations within the Commonwealth. The Pennsylvania Association of Milk Dealers also participates and provides testimony at Over-Order Premium hearings.

The Over-Order Premium currently impacts 15% - 20% of the milk produced in Pennsylvania. During its first 30 years, the direct impact of the Over-Order Premium resulted in Pennsylvania producers receiving an additional \$842 million in revenue.

Many people ask why the Board-mandated Over-Order Premium is not payable on all milk produced in Pennsylvania. There are several reasons. First, Pennsylvania produces much more milk than our citizens consume; many of our processors ship fluid milk to schools and retailers in other states. Second, much of PA-produced milk is used for products such as cheese, butter, powdered milk, or products to be shipped out-of-state. None of these products qualify for the OOP.

HOW THE OVER-ORDER PREMIUM FLOWS THROUGH THE SYSTEM

The OOP flows through all levels of minimum pricing—producer, wholesale, and retail. The retailer pays OOP as part of the minimum wholesale price and this cost is passed on to consumers via minimum retail pricing. The amount of OOP included in the minimum wholesale price to be paid out to PA producers by dealers via minimum producer pricing is based on two factors: 1) percent Class 1 utilization and 2) percent that is produced, processed, and sold in the Commonwealth. The two factors are multiplied and then applied to the announced OOP rate to determine the OOP as rate/cwt.

As an example, Haynes Dairy milk is 100% Class 1 utilization, but only 50% is sold in the Commonwealth. If the announced OOP rate for the month is \$1.00/cwt then the OOP rate paid by Haynes Dairy to its PA producers would be \$0.50/cwt.

As a second example, Kerns Dairy milk is 50% Class 1 utilization, but only 50% is sold in the Commonwealth. If the announced OOP rate for the month is \$1.00/cwt then the OOP rate paid by Kerns Dairy to its PA producers would only be \$0.25/cwt.

Dealers pool (combine) their milk from multiple sources and calculate OOP due PA farmers based on that pool. During the period 2000-2021, the OOP fluctuated widely, with a low of \$0.83/cwt in 2018 to a high of \$3.12/cwt in 2010.

MMB RECORDS AND OOP AUDITING

To summarize the previous information, the dealer/wholesaler collects the premium from the retailer as part of the wholesale price. The dealer then pays the amount due PA producers based on percent of Class 1 (fluid milk) utilization and percent PA produced, processed and sold.

General Information About our Reporting Requirements

Licensed dealers located in PA that purchase PA producer milk are required to report all receipts and utilization of milk. This allows for proper calculation of the dealer's OOP obligation to its PA producers. Monthly report information is used to calculate a dealer's PA Class 1 producer pounds and the percentage of PA receipts to determine the PA Class 1 producer pounds subject to OOP. These pounds are multiplied by the OOP rate for the month to calculate the dealer's total OOP obligation to its PA producers.

The dealer monthly data are reviewed by PMMB staff to ensure data are complete and accurate. PMMB staff compare the 'audited' OOP obligation for a dealer with the amount of OOP actually paid by the dealer; this is reviewed both at the overall level and also at an individual level for a sample of PA producers. For PA producer milk purchased from cooperatives, the PMMB is only able to ensure that the cooperative is paid in total the amount of OOP owed it by a dealer; we do not have any authority to dictate how a cooperative might distribute OOP dollars to their members. If the auditor finds that the amount of OOP due any PA producer group was underpaid by the dealer, then PMMB staff will enforce restitution of those underpayments (to be made within 30 days of having been given notice).

STRANDED PREMIUM

The Board and Staff rarely use the term “Stranded Premium,” but we know that it has been part of the OOP conversations for quite some time. We consider it to be the OOP that is collected at some point in the chain of commerce that is not mandated to be paid to PA producers. Some of these premiums may be paid out as voluntary premiums to producers or put back into the operations of the dairy or cooperative.

Our data indicate that for the calendar year 2022, just under \$24 million OOP dollars were collected by dealers at wholesale with an obligation to PA producers of \$14.5 million. The amount not mandated to be paid to PA producers under the current system is calculated to be approximately 39 percent. This is the amount being referred to as “stranded premium.”

Because we do not license the “big box” retailers or distributors such as Sam’s Club, Costco and B.J’s, we have no figures on how much milk is coming into the state to their retail locations.

SUMMARY

PMMB staff are dedicated to ensuring Pennsylvania producers are paid the correct amount of OOP under the current system. If there is a change made to the OOP system, PMMB Staff will do whatever they can to assist in the development of such a system and then continue to ensure Pennsylvania producers are paid accurately under the new system.

Thank you for the opportunity to testify before your committee.

PENNSYLVANIA MILK MARKETING BOARD MEMBER TESTIMONY BEFORE THE
SENATE AGRICULTURE AND RURAL AFFAIRS COMMITTEE

Jim Van Blarcom

April 25, 2025

INTRODUCTION

My name is Jim Van Blarcom, a dairy and crop farmer from Bradford County, PA. Along with my two sons-in-law and a daughter, we milk close to 1,000 cows and farm 3,300 acres in the hills of northeast Pennsylvania.

Thank you for the opportunity to speak. Thank you for appointing a geographically diverse and generationally diverse PMMB board.

You may argue that I am not an expert witness, but I can attest that I am an experienced one. As of this date in 1974, my wife and I came home early from our honeymoon to attend a cow sale and then buy our first seven cows – that would be 49 years ago tonight.

I have been watching the Over-Order Premium since its inception in 1988. I testified in favor of the Over-Order Premium for PA Farm Bureau in 2000. My farm never collected very much Over-Order Premium, and most of the time I did not know how much was collected by my coop.

Since then, I have been hearing concerns from farmers from across the state, for the last 9 years, since I have been on the board. The Over-Order Premium was created under Section 801 of the PA Milk Marketing Law to help dairymen recoup their cost of production. The Milk Marketing Law has a built in a 2.5 to 3.5% profit for the bottlers and the retailers.

ONGOING CONTROVERSIES WITH THE OVER-ORDER PREMIUM

Since the OOP inception, our dairy industry has changed rapidly, making it outdated and less and less effective.

As a board member, it is getting more and more difficult to weigh the benefits to the farmers who receive a useful OOP vs. farmers who receive very little to none of the OOP. It is more and more difficult to justify the premium to my peers in the dairy industry.

When the consumers pay a mandated OOP of 8-12 cents on every gallon of milk sold, this becomes a large sum of money, of which some is unaccounted for. In 2022, \$23.6 million was collected by dealers selling milk in Pennsylvania to a Pennsylvania retailer. The amount collected by retailers from the consumer was more than that. There is \$14.5 million distributed to farmers, but not in an equitable way. This leaves \$9 million of OOP unaccounted for, or as some have called it the “stranded premium,” \$4 million of which is collected by out of state companies, who we have given licenses to sell milk inside the state of PA.

I have heard over and over from PA Farmers of tank loads of NY milk, coming into PA and displacing PA farmers milk. The primary reason these companies do this, is they can take advantage of the OOP and the minimum price. We are essentially encouraging this to happen.

At a recent OOP hearing, a farmer with 90 cows testified before the board that he receives approximately the equivalent of 1 bag of calf feed per month from the OOP.

My experience tells me that one bag of calf feed is not what keeps this farmer in business. It is his tenacity and commitment to his family farm that keeps him in business.

Reflecting to another recent OOP hearing at which Rep. Lawrence testified that all funds collected for other taxes such as tobacco and alcohol, “there is accurate accounting for every cent collected on these items.” But this does not happen to our mandated OOP.

SUMMARY

In conclusion, the OOP will continue to be more and more difficult to defend. It is a program that’s money is unaccounted for and not fairly distributed. Today, consumers

understand very little of the OOP, but as time goes on, they will become more aware of the program and unfairness to themselves. This will again, make it more difficult to justify this program to the consumer. It is now time for a major overhaul of the OOP.

Thank you again for the listening.

PENNSYLVANIA MILK MARKETING BOARD MEMBER TESTIMONY BEFORE THE
PENNSYLVANIA SENATE AGRICULTURE AND RURAL AFFAIRS COMMITTEE

Kristi Kassimer Harper

April 25, 2023

INTRODUCTION

Good morning, Chairman Vogel, Minority Chair Schwank and members of the Senate Agriculture & Rural Affairs Committee. My name is Kristi Kassimer Harper and I serve as the consumer member of the Pennsylvania Milk Marketing Board (PMMB). I was unanimously confirmed by the state senate on June 15, 2021.

In addition to my role on the board, I own and operate Kascom Media, a consulting firm focused on providing clients with strategic marketing and communications solutions. I work closely with local government and business organizations, leading multiple public relations projects.

I previously served as Director of Marketing and Communications for the Pennsylvania Beef Council (PBC). Part of my role included implementing state retail and foodservice marketing programs promoting beef and veal, as well as coordinating consumer education events. Prior to joining the PBC, I worked at the Pennsylvania Department of Agriculture (PDA) where I administered the PA Preferred® program. It was in that role that I learned first-hand the challenges farmers face in marketing a commodity product, particularly Pennsylvania dairy producers.

I reside in Fayette County with my husband Rob and three sons, Cohen, Wyatt and Hayes. Together, we operate a 100-acre livestock farm where we raise beef cattle and Boer goats. Our farm is located approximately one mile from a retail dairy store that we frequent weekly,

often multiple times, for milk and post-chore ice cream. In short, we are dedicated dairy consumers.

IMPACT OF PENNSYLVANIA OVER-ORDER PREMIUM (OOP) ON CONSUMERS

As the consumer member of the PMMB, it is both my desire and responsibility to advocate for consumers – the individuals and families who are making good faith dairy purchases. Having grown up in the agricultural industry, I understand the hard work and commitment farmers put into producing a quality product. It is what we are teaching our boys by way of their 4-H animals. The average consumer, however, may not have the benefit of that knowledge.

In fact, according to a 2019 Pennsylvania Dairy Consumer Market Research report done by Saint Joseph's University, most consumers don't give much thought to where their dairy products come from. In addition to Pennsylvania consumers' attitudes and perceptions of dairy farmers and dairy products, the study also investigated their preferences and buying habits.

More specifically, the report explored consumers' willingness to pay a price premium for dairy products if the premium goes directly to a farmer. Findings from an online survey of Pennsylvania residents indicated about 2/3 of respondents are willing to pay a price premium of 10 cents for a gallon of milk if the added money would go directly to a Pennsylvania dairy farmer.

This is important to note, particularly when considering how the Pennsylvania Over-Order Premium (OOP) impacts consumers. When a retailer pays the OOP as part of the minimum wholesale price, that cost is passed on to consumers. And while research indicates the majority of consumers are willing to pay more if farmers reap the benefits, conflict arises when

consumers are paying OOP that does not make it back to the farmer and begs the question – are consumers unfairly shouldering the burden of paying more for the product?

VALUE OF OVER-ORDER PREMIUM (OOP) TO PENNSYLVANIA FARMERS AND PROCESSORS

Last fall, I had the opportunity to visit a prominent southwestern Pennsylvania processor and learned first-hand how OOP positively impacts their business, as well as the local farms where they purchase milk. Family-owned and operated, the business was established in the 1930s. Today, they work with more than 40 family-owned Pennsylvania farms.

I listened to their story, how their business has both suffered through and overcome challenges within the dairy industry. I toured their milk plant and shopped in their retail store. They are a perfect example of OOP reaching its full potential and providing a safety net for Pennsylvania dairy farmers, especially during times when input costs are soaring.

During the past several months, I have heard from multiple dairy farmers and processors located in western Pennsylvania who reached out to share their feedback regarding OOP. For many of them, it serves as more than a safety net. It's something small dairy farms and processors, which seem to be more prevalent in western Pennsylvania, count on, not to thrive but to simply survive. Without a premium structure like OOP in place, they stand to lose significant income and the ability to offset elevated input costs, especially in the wake of today's economy.

SUMMARY

In summary, there are two points I would offer for your consideration.

1. Consumers are willing to go the extra mile for Pennsylvania milk. As a mom, raising a young family, I certainly am.
2. There is value in OOP that does get to Pennsylvania farmers and processors, especially when faced with unprecedented inflation and supply chain costs.

I think we all agree the current OOP structure needs to be examined and adjusted, perhaps in a way that would both honor the additional premium consumers are paying to purchase milk and see premium dollars more evenly distributed among Pennsylvania dairy producers.

Thank you for the opportunity to share testimony today. Your willingness to engage in meaningful dialogue regarding OOP will only help to strengthen Pennsylvania's dairy industry across all areas including our farmers, processors, retailers and consumers.

PENNSYLVANIA MILK MARKETING BOARD CHAIR TESTIMONY BEFORE THE
PENNSYLVANIA SENATE AGRICULTURE AND RURAL AFFAIRS COMMITTEE

Robert N. Barley, Chair
Pennsylvania Milk Marketing Board

April 25, 2023

INTRODUCTION

Good morning, I am Robert Barley, Chairman of the Pennsylvania Milk Marketing Board (PMMB). My brother, cousin and I operate a diversified crop and livestock operation in Lancaster and York Counties, Pennsylvania, which includes a 2,000-cow dairy.

I want to thank Senator Vogel and Senator Schwank for their commitment to holding this hearing on the future of Pennsylvania's Over-Order Premium (OOP). It is certainly time to evaluate how PA can get money back to its dairy producers in a way that does not pick winners and losers.

ONGOING CONTROVERSIES WITH THE OOP

Since it began in 1988, the OOP has brought over \$800 million back to Pennsylvania dairy farmers. It was established when a majority of PA milk was processed for fluid consumption or remained in the state. There is no doubt that over this period it has helped many farm families receive much needed additional income.

However, over time we have seen the amount processed for fluid consumption drop almost in half. This has left many of our top PA producers frustrated and feeling cheated. Additionally, it has always been difficult to account for the money that is collected but fails to find its way back to the dairy producer. Due to interstate commerce laws, only milk that is produced, processed, and sold in Pennsylvania qualifies for the OOP. Since the OOP is collected at the retail level and incorporated into the minimum price cost build up, money is collected but

not all is getting back to PA dairy producers. This has been commonly referred to as “stranded premium,” although it is factually money that is not mandated to be paid to PA producers.

Since we do not collect retail sales information, we do not know how much OOP is stranded in total; our records indicate that of the total amount collected at the wholesale level nearly 40% did not find its way back to Pennsylvania’s dairy producers during 2022.

First, I would like to thank Gary Gojsovich for his explanation and history of the OOP. His testimony clarified and defined many of the issues we are talking about today. Additionally, I would like to thank Jim Van Blarcom and Kristi Kassimer Harper, my colleagues on the PMMB, for their testimony about the value and challenge of the OOP. We can see that depending on which area of the state you reside in your opinion of the OOP varies. This inequity is not sustainable.

THE NEED FOR CHANGE

Chairman Vogel and Ranking Member Schwank we have a system like no other state that has worked well when Pennsylvanians were drinking a lot of milk produced by Pennsylvania dairy producers. However now that many consumers are drinking less fluid milk and enjoying their dairy in the form of cheese, butter, yogurt, ice cream and numerous other dairy products this system needs an adjustment.

You might say, why don’t we just collect the same premium from these other products. Going back to the initial hearing on July 27, 1988, I would like to paraphrase what Mr. James Fraher, an economist with Atlantic Dairy Cooperative testified: The primary reason for placing the premium on Class I milk only was the very practical point that a mechanism was already in place through Milk Marketing Board pricing for passing increases in producer prices through to consumers of fluid milk. Mr. Fraher observed that there was no such mechanism with respect to

other classes of milk. Additionally, he noted that the Class I market was more of a local market and that the manufacturing classes of milk were more a commodity and national market. I think Mr. Fraher's points are as true today as they were in 1988. It was acceptable in 1988 when 70% was covered in the system. Today with less than 30% covered and even more products coming from not only across the nation, but across the globe, it would be nearly impossible to assess an OOP on Classes 2, 3 and 4.

Unless the legislature would like to allocate somewhere between \$50 to \$200 million to PA dairy producers, we are going to have to find another solution. As I went back and reviewed the many different concepts, over the period I have been Chairman of the PMMB there seems to be a theme. Find an additional revenue source while maintaining or phasing out the current OOP. This would be accompanied by institution of Distributor Licensing to understand the total OOP and ultimately finding a mechanism to collect the full amount of potential stranded premium. Here are several sources that have recommended this:

- 1) The Legislative Budget and Finance Committee Dairy Study.
- 2) The PA Dairy Future Commission.
- 3) PMMB Board Members and Staff as we have met with the architect of the Maine Milk Plan.
- 4) Representative John Lawrence in several bills that have passed the PA House of Representatives.
- 5) The Pennsylvania Department of Agriculture.
- 6) The Pennsylvania Farm Bureau.

Most any way we arrive at a solution will require legislative changes along with a careful review and understanding of the interstate commerce laws.

WHAT ARE OUR OPTIONS

Now is the time to start down the path to change. We are at a crossroads. Ultimately, we have three choices:

- 1) Eliminate the current OOP due to its inequality in distribution and inability to get all the money collected at the retail level back to the farmer.
- 2) If legislation cannot fix the current OOP without violating interstate commerce laws, develop legislation that allows separate collection and distribution mechanisms.
- 3) Develop a new system that ultimately strengthens the dairy industry in Pennsylvania that benefits producers, processors, retailers, and consumers.

Thank you for the opportunity to testify before you today.