

<h1>Regulatory Analysis Form</h1>		This space for use by IRRC JUL 23 PM 2:52 PENNSYLVANIA COMMISSION IRRC Number: 2281
(1) Agency Pennsylvania Milk Marketing Board		
(2) I.D. Number (Governor's Office Use) 47-10		
(3) Short Title Milk Marketing Fees		
(4) PA Code Cite 7 Pa. Code Chapter 150	(5) Agency Contacts & Telephone Numbers Primary Contact: Lynda J. Bowman, Executive Secretary 787-4194 Secondary Contact: Douglas L. Eberly, Staff Attorney 787-4194	
(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The proposed regulation increases license and certification fees, including an increase in hundredweight of milk fees, to reflect the administrative costs incurred in issuing these licenses and certifications. This regulation also achieves greater clarity and consistency within the existing regulation. The regulation meets the Milk Marketing Board's budget requirements since, based on current fees, the Board anticipates a deficit in the Milk Marketing Fund by fiscal year 2005-2006 and, therefore, these increases are necessary to avoid this deficit in the Milk Marketing Fund.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. 31 P.S. § 700k-3 mandates that the Milk Marketing Board shall charge and collect license fees. 31 P.S. § 700k-3(c) allows the Milk Marketing Board to increase fees by regulation from time to time.		

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Under current funding, the Milk Marketing Board projects a steadily declining balance in the Milk Marketing Fund with an anticipated deficit occurring in fiscal year 2005-2006. The Milk Marketing Fund consists primarily of money collected from license and certification fees, including hundredweight of milk fees. The Milk Marketing Board relies solely on the Milk Marketing Fund for running the agency. No revenues from the General Fund are received by the Board. It is a compelling public interest that the Milk Marketing Board remains viable and fulfills its legislative purpose – to regulate and control the milk industry in Pennsylvania.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The Milk Marketing Board is mandated to regulate and control the milk industry in Pennsylvania for the protection of the public health and welfare and for the prevention of fraud 31 P.S. § 700j-101. The Milk Marketing Board is funded solely by the Milk Marketing Fund and receives no money from the General Fund. The Milk Marketing Board would have no revenues to operate if a deficit occurred within the Milk Marketing Fund.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The Pennsylvania Milk Marketing Board was created to benefit the entire milk industry – the dairy farmers, the milk dealers, the retailers, and the Pennsylvania consumers. The biggest benefit for this regulation is to keep the Milk Marketing Board a viable operating agency. Particular benefits are as follows. The 9,900+ Pennsylvania dairy farmers will benefit from this regulation in that the Milk Marketing Board ensures that Pennsylvania dairy farmers are correctly and timely paid by the milk dealers. Pennsylvania milk consumers are assured of a constant sufficient quantity of pure and wholesome milk. Milk dealers and retailers are assured of a reasonable rate of return (2.5% - 3.5%) based on net sales of Board price-controlled products. Without the funds to operate the Milk Marketing Board, these benefits would disappear.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Although the milk dealers, subdealers, milk haulers, milk weigher/samplers, and milk testers benefit from the Milk Marketing Board, all but the milk haulers and milk testers will be adversely affected by the regulation in that the license and certification fees, including hundredweight of milk fees, required to be paid by them will be increased. Currently there are 190 milk dealers and 144 milk subdealers licensed by the Milk Marketing Board. There are 2,027 milk weigher/samplers certified by the Milk Marketing Board.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The following groups are licensed or certified by the Pennsylvania Milk Marketing Board and will be required to comply with the proposed regulation to increase license and certification fees.

190 Milk Dealers
144 Milk Subdealers
2,027 Milk Weigher/Samplers

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Meetings with representatives of the Pennsylvania Association of Milk Dealers (the most adversely impacted group) were held to make them aware of the declining balance of the Milk Marketing Fund. It was understood that the license and certification fees, including the hundredweight of milk fees, had to be increased to operate the Milk Marketing Board.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The estimate of the costs to the regulated community (milk dealers, milk subdealers, and milk weigher/samplers) representing the increase from the current license and certification fees, including the hundredweight of milk fees, compared to the proposed fees are as follows:

FISCAL YR.	CURRENT LICENSE REVENUE	PROPOSED LICENSE REVENUE
2003-2004	\$2,164,000	\$2,754,000
2004-2005	\$2,164,000	\$2,754,000
2005-2006	\$2,164,000	\$2,754,000
2006-2007	\$2,164,000	\$2,754,000

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There will be no additional costs and/or savings to local governments associated with compliance, including legal, accounting, or consulting procedures, with this regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There will be no additional costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. The Milk Marketing Board currently issues licenses and certifications to all applicants and, therefore, there will be no additional administrative costs associated with the implementation of this regulation.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	\$ 0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$0	\$0	\$590,000	\$590,000	\$590,000	\$590,000
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$590,000	\$590,000	\$590,000	\$590,000
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$23,095	\$23,095	\$23,095	\$23,095
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$23,095	\$23,095	\$23,095	\$23,095

(20a) Explain how the cost estimates listed above were derived.

The cost estimates were derived by comparing the current license and certification fees to those increases provided for in the proposed regulation to arrive at costs for the regulated community. These fee increases are scheduled to go into effect during fiscal year 2003-2004.

No revenue losses are reflected for milk dealers because their costs are recovered during annual cost replacement hearings. Based on 144 milk subdealers, a revenue loss of \$6,480 was determined based on the increased license fee of \$45 for the entire license year. The certification fee for milk weigher/samplers will be increased by \$10 and the annual renewal fee will be increased by \$5. The revenue loss of \$16, 615 for milk weigher/samplers reflects the increase in annual renewal fees since many milk weigher/samplers are currently certified. The revenue loss for milk weigher/samplers also takes into account the fact that new milk weigher/samplers are certified during the certification year.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Costs to issue licenses and certifications	\$30,000	\$30,000	\$30,000	\$30,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The benefit of the regulation clearly outweighs the adverse effects and costs in that, without the promulgation of the regulation, the Milk Marketing Board would be unable to operate because the Milk Marketing Fund would have a deficit balance. No general fund monies are used to support the operation of the agency.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no nonregulatory alternatives to increase license and certification fees. The Milk Marketing Fee Act specifically states that the "board may, in its discretion, increase any such fee by regulation from time to time." 31 P.S. § 700k-3(c).

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There were no alternative regulatory schemes considered.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The Board is unaware of license and certification fees, if any, that other states have instituted. This regulation will not put Pennsylvania at a competitive disadvantage in that the applicants must be licensed or certified to operate in Pennsylvania.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will affect existing regulations promulgated as a result of the Milk Marketing Fee Act in that there will be an increase in license and certification fees currently contained in the existing regulations.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

This regulation change will change the record keeping in that license, certification, and hundredweight of milk fees will reflect the increases. The regulation will not, however, create additional record keeping or additional paperwork requirements for either applicants or Board staff.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions have been made or required to be developed to meet particular needs of affected groups.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

July 1, 2003.

(31) Provide the schedule for continual review of the regulation.

This regulation will be reviewed on an annual basis to determine that the license and certification fees provide adequate revenue in the Milk Marketing Fund.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**
(Pursuant to Commonwealth Documents Law)

RECEIVED
JUL 23 01:28:52
LEGISLATIVE REFERENCE BUREAU

DO NOT WRITE IN THIS SPACE

2281

Copy below is hereby approved as to form and
legality. Attorney GeneralBy _____
(Deputy Attorney General)

JUL 24 2002

DATE OF APPROVAL

☐ Check if applicable
Copy not approved. Objections attached.Copy below is hereby certified to be true and correct copy of
a document issued, prescribed or promulgated by:PENNSYLVANIA MILK MARKETING BOARD
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 47-10

DATE OF ADOPTION _____

BY Lynnda J. BurmanTITLE SECRETARY

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and
legality. Executive or Independent AgenciesBY Douglas C. Thibault7/3/02
DATE OF APPROVAL~~(Deputy General Counsel)~~
(Chief Counsel - Independent Agency) ACTING
(Strike inapplicable title)☐ Check if applicable. No Attorney General
Approval or objection within 30 days after
submission.

PENNSYLVANIA MILK MARKETING BOARD

(7 Pa. Code Chapter 150) Milk Marketing Fees

The Pennsylvania Milk Marketing Board (Board) proposes to amend 7 Pa. Code §§ 150.1 - 150.82, which govern Board fees, to read as set forth in Annex A.

Purpose of proposed amendments

The proposed amendments have three purposes: to adjust fees as necessary to reflect the administrative costs of issuing licenses and to meet the Board's budget requirements, and to achieve greater clarity and consistency.

Article XI of the Milk Marketing Law, 31 P.S. §§ 700j-1101 - 700j - 1104, provides that all money collected by the Board from license fees and other sources shall be placed in a separate fund known as the Milk Marketing Fund, which is annually appropriated to the Board to pay its expenses. The Board is therefore self-supporting, receiving no revenues from the General Fund. Its chief source of revenue is license and certification fees. Monetary penalties paid by licensees in settlement of prosecution actions and miscellaneous income such as interest provide minor supplemental income. Of these sources, only license and certification fees are capable of meaningful adjustment to offset projected shortfalls.

Under current funding, the Board projects steadily declining balances in the Milk Marketing Fund with an anticipated deficit of \$163,000 occurring in fiscal year 2005-2006 and a deficit of \$751,000 for fiscal year 2006-2007. To avoid the shortfalls projected to commence in fiscal year 2005-2006, the Board is proposing to increase license fees of milk dealers, subdealers, and milk haulers beginning with the 2003-2004 license year (July 1, 2003 - June 30, 2004) and the certification fees of milk weighers and samplers and milk testers beginning with the 2003 license year (January 1, 2003 - December 31, 2003). These increases will result in the following projected balances: \$1,354,000 for fiscal year 2003-2004; \$1,689,000 for fiscal year 2004-2005; \$1,943,000 for fiscal year 2005-2006; and \$2,113,000 for fiscal year 2006-2007.

Summary of proposed amendments

Section 150.2: License year; certification year

This new section identifies the time periods covered by, respectively, a license year and a certification year. References to these time periods occur throughout the regulations.

Sections 150.11 - 150.13, 150.41 - 150.42: License Fees of Milk Dealers

The proposed amendments to provisions addressing license fees of milk dealers distinguish more clearly among the three fees imposed: a fixed fee for the initial license, a fixed fee for annual license renewal, and an annual hundredweight fee. Additional clarity has been provided with regard to what milk is subject to the hundredweight fee. Existing section 150.12

refers to milk for which the Board has fixed a price is subject to the higher fee and to milk for which the Board has not fixed a price is subject to the lower fee. Although that terminology tracks language in section 3(a)(2) and (3) of the Milk Marketing Fee Act, 31 P.S. § 700k-3(a)(2) and (3), it is ambiguous. The Board fixes not only wholesale and retail prices but also prices for producer milk (raw milk sold by dairy farmers to milk dealers). Producer milk is not subject to the higher hundredweight fee. Therefore the Board has specified that the higher fee is imposed on milk subject to wholesale or retail prices fixed by the Board, thus eliminating producer milk. The lower fee is then imposed on all other milk handled within the state.

The Board proposes in section 150.11(b) to increase the initial application fee of milk dealers from \$50 to \$100 beginning with the 2003-2004 license year (July 1, 2003 - June 30, 2004). The fee takes into account the staff time required to review the application, contact the applicant to resolve discrepancies, prepare and present the application to the Board, generate the license, input the information into the computer system, and create a file. Section 4(a) of the Milk Marketing Fee Act requires, however, that the Board prorate the "specific annual fee" for milk dealers "who are not engaged in the milk business at the commencement of the license period." Although the application fee is not paid annually, it is the only fee to which this directive could apply. Accordingly, the Board is compelled to lower the fee based on when the application is filed notwithstanding the fact that staff time is unaffected. Prorating will continue to be done on a quarterly basis.

The annual renewal fee for milk dealers under section 150.11(c) will remain \$50, which reflects the reduced amount of staff time required to process renewal applications.

In section 150.12, the Board is proposing modest increases in the hundredweight fees paid by milk dealers, namely, from \$.035 to \$.055 for milk subject to wholesale or retail prices fixed by the Board, and from \$.005 to \$.0064 on milk not subject to those prices. The increases will take effect commencing with the 2003-2004 license year.

The Board proposes to delete sections 150.41 and 150.42. Section 150.41 recapitulates section 5 of the Milk Marketing Fee Act, which permits the Board to exclude certain categories of milk from the computation of license fees. The regulation does not, however, indicate what, if any, exclusions the Board has approved. The exclusions deemed appropriate now appear in section 150.12(d) of the proposed regulations. Subsection (d) excludes milk purchased by an in-state or out-of-state milk dealer from an out-of-state producer if the milk was diverted and never entered the purchasing dealer's plant. The Board has declined to exclude (1) milk produced by an applicant but not sold by that applicant to stores or consumers; (2) milk sold in a state that also charges a hundredweight fee; and (3) an amount of nonprice controlled products sold from one licensed dealer to another licensed dealer or subdealer on which the fees in §§ 150.11-150.13 and 150.21-150.23 (relating to license fees of milk dealers and license fees of subdealers), having determined that the reporting and administrative burdens of tracking such milk would outweigh any financial benefits.

Section 5 of the Milk Marketing Fee Act also directs the Board, in computing the license fee, to ascertain and fix the fluid milk equivalent of milk other than fluid milk. The Board has

exercised this authority in section 150.12(c) of the proposed regulations, which sets out the formulas for converting creams and condensed and concentrated milk to their fluid milk equivalents. That provision also describes the treatment of farm-separated sour cream, as mandated by section 5.

The proposed amendments to section 150.13 reorganize the provision and generally enhance clarity. The sole substantive change is deletion of the statement that a milk dealer failing to make a timely installment payment on a license fee shall be deemed to be unlicensed. The Board has decided that it is more prudent to address such lapses on a case-by-case basis.

Sections 150.21 - 150.23: License Fees of Subdealers

Subdealers are referred to in the existing regulations as milk subdealers. The statutorily defined term is, however, subdealer (*see* section 103 of the Milk Marketing Law, 31 P.S. § 700j-103). The Board proposes first therefore to delete milk whenever it precedes subdealers. Second, the Board proposes in section 150.21 to establish a fee of \$50 for an initial subdealer license and a fee of \$25 for a renewed license beginning with the 2003-2004 license year. The current fee of \$5 bears no relationship to the administrative costs of processing subdealer licenses. As with milk dealers, however, the fee for an initial license would be prorated based on when the license was issued.

Section 150.22 has been amended to make clear that subdealers pay, not a hundredweight fee, but a fee based on their average monthly purchases of milk for which the Board has set a wholesale price. The Board proposes to add language excluding from the calculation any month during which the subdealer did not engage in business. The proposed amendments to section 150.23 distinguish between payment of the initial application fee and the renewal fees.

Section 150.51 - 150.53: License Fees of Milk Haulers

The Board has maintained in section 150.51 a \$30 fee for an initial and renewed milk hauler license. The Board has also maintained the \$.005 hundredweight fee imposed under section 150.52. Language was changed for consistency with other changes made in this amendment and to clarify what milk the hundredweight fee is imposed on.

Sections 150.61 - 150.62: Certification Fees of Milk Testers

Because milk testers are certified, not licensed (*see* section 602 of the Milk Marketing Law), the Board proposes first to correct language referring to their credential. The Board proposes no increase in the milk tester's examination fee, initial application fee, or renewal fee.

Sections 150.71 - 150.72: Certification Fees of Milk Weighers and Samplers

Like milk testers, milk weighers and samplers are certified, not licensed (*see* section 603 of the Milk Marketing Law). The Board has therefore corrected language referring to their credential. The Board proposes to increase the milk weighers and samplers examination fee

from \$15 to \$25 and to increase the application and renewal fee from \$15 to \$20. This change reflects the staff time required to administer the examination and issue the certificate to a milk weigher and sampler and brings the certification fees in line with those of the milk testers.

Sections 150.81 - 150.82: Other Fees

The Board proposes an increase in fees for transferring a license from \$10 for \$50 based on the amount of staff time spent reviewing the application for transfer and issuance of a new license. The Board proposes no increase in fees charged for copying or certifying Board documents.

Statutory authority

The Milk Marketing Fee Act, 31 P.S. §§ 700k - 1 et seq., authorizes the Board to establish license fees for milk dealers, subdealers, and milk haulers; certification fees for milk testers and milk weighers and samplers; a fee for transferring a license; and fees for copying and providing certification of Board documents. Section 10.1 of the act provides that these fees are for the exclusive use of the Board in carrying out its statutory duties.

Fiscal impact

The proposed fee increases will have a fiscal impact on milk dealers, subdealers, and milk weigher and samplers by requiring them to pay greater initial application, license renewal, or hundredweight fees.

Paperwork requirements

There will be no additional paperwork requirements for milk dealers, subdealers, milk haulers, milk testers, or milk weighers and samplers.

Effective date; sunset date

The amendments will become effective upon publication in the Pennsylvania Bulletin as final rulemaking. No sunset date has been assigned.

Regulatory review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), a copy of this proposal was submitted on _____ to the Independent Regulatory Review Commission (IRRC) and to the chairpeople of the House and Senate Committees on Agriculture and Rural Affairs. In addition to submitting the proposed amendments, the Board has provided IRRC and the committees with a copy of a detailed regulatory analysis form. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendment, it will notify the

Board within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Board, the General Assembly, and the Governor of objections raised before final publication of the regulations.

Public Comment

Interested persons are invited to submit written comments, suggestions, or objections concerning the proposed amendments to Beverly R. Minor, Chairwoman, Pennsylvania Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, within 30 days following publication in the Pennsylvania Bulletin.

Beverly R. Minor
Chairwoman

Annex A
TITLE 7. AGRICULTURE
PART VI. MILK MARKETING BOARD
CHAPTER 150. MILK MARKETING BOARD FEES
GENERAL PROVISIONS

§ 150.1. Definitions.

When used in this chapter, [The words,] terms [and phrases] defined in section 103 of the act (31 P.S. § 700j-103) [are incorporated by reference] have the meanings given to them in that section, unless the context clearly indicates otherwise.

§ 150.2. License year; certification year.

(a) The license year for milk dealers, subdealers, and milk haulers is the period beginning on July 1 of a given year and ending on June 30 of the succeeding year.

(b) The certification year for milk testers and milk weighers and samplers is a calendar year.

LICENSE FEES OF MILK DEALERS

§ 150.11. [Annual] E[f]ixed fees.

(a) [A milk dealer shall pay to the Board an annual fixed fee of \$50.]

[(b) A milk dealer who is not engaged in the milk business on July 1] A new applicant for a milk dealer's license shall pay a fee of \$100 for a license issued on or after July 1 but before October 1 of the same year or a proportionate fixed annual fee as follows:

(1) \$75 [F]for a license issued on or after October 1[,] but [prior to] before January 1 of the succeeding year[, the fee is \$37.50.]

(2) \$50 [F]for a license issued on or after January 1[,] but [prior to] before April 1 of the same [succeeding] year[, the fee is \$25.]

(3) \$25 [F]for a license issued on or after April 1[,] but [prior to] before July 1 of the same year[, the fee is \$12.50.]

(b) An applicant for annual renewal of a milk dealer's license shall pay a fee of \$50.

§ 150.12. [Additional annual] Hundredweight fees.

(a) In addition to the annual [fixed] license renewal fee imposed under § 150.11(b) (relating to [annual] fixed fees), a milk dealer that was licensed for the entire calendar year preceding license renewal shall pay [to the Board a] an annual hundredweight fee [equal to the sum of] as set forth in paragraphs (1) and (2).

(1) For milk for which the Board has fixed a minimum wholesale or retail price, received or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is [\$.035] \$.055 per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price that is not included under paragraph (1) and that the milk dealer [,] received or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is [\$.005] \$.0064 per hundredweight.

(b) In addition to the annual license renewal fee imposed under § 150.11(b), [A] a milk dealer [who] that [did not hold a milk dealer's license] was not licensed for the [complete] entire [preceding] calendar year preceding license renewal shall pay [on a monthly basis, in addition to the fee imposed under § 150.11,] a monthly hundredweight fee [equal to the sum of:] as set forth in paragraphs (1) and (2). Monthly payments shall continue until the milk dealer has been licensed for an entire calendar year and for each month thereafter until the next license year begins. Annual payments shall then commence pursuant to subsection (a).

(1) For milk for which the Board has fixed a minimum wholesale or retail price, received or brought into this Commonwealth during the preceding month for which the license was issued, the fee is [\$.035] \$.055 per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price that is not included under paragraph (1) and that the milk dealer [,] received or brought into this Commonwealth during the preceding month for which the license is issued, the fee is [\$.005] \$.0064 per hundredweight.

(c) [The payments required under subsection (b) shall continue until the milk dealer has been engaged in the milk business for a full year, at which time the Board will establish a license fee based upon this section, § 150.11 and § 150.13 (relating to time for payment of fees).] In computing hundredweight fees under subsections (a) and (b), the Board will ascertain and fix the fluid milk equivalent of milk other than fluid milk by dividing the pounds of butterfat in cream by 3.5 and the pounds of nonfat solids in condensed and concentrated milk by 8.8. For farm-separated sour cream used exclusively in making butter to be marketed or ultimately sold as such, the Board will compute the total quantity of milk based on pounds of butterfat or sour cream rather than on the fluid milk equivalent.

(d) Milk purchased by a milk dealer located in or outside this Commonwealth from an out-of-state producer, which milk was diverted to an out-of-state milk dealer, is not subject to a hundredweight fee. As used in this subsection, "diverted" means that the purchasing milk dealer took possession of producer milk at the farm, from which location it was delivered to another milk dealer without entering the purchasing milk dealer's plant.

§ 150.13. Time for payment of fees.

(a) A[n] new applicant [seeking] for a milk dealer's license shall pay the fee imposed under § 150.11(a) (relating to [annual] fixed fees) [at the time] when the applicant submits the license application form provided [is filed with] by the Board.

(b) An applicant [seeking] for renewal of a milk dealer's license shall pay the fees imposed under §§ 150.11(b) and [§] 150.12(a) (relating to [additional annual] hundredweight fees) [at the time] when the applicant submits the license renewal application form provided [is filed with] by the Board. Fees exceeding \$2,000 may be paid in four substantially equal installments, the first to be submitted with the license renewal application form and the remaining three to be received in the Board office on or before September 15, December 15, and March 15, respectively, or the next business day if the 15th falls on a day when Commonwealth offices are closed.

(c) [Notwithstanding the provisions of subsection (b), an applicant seeking renewal of a dealer's license may pay the fee imposed under §§ 150.11 and 150.12 in four equal payments if the total fee imposed exceeds \$2,000. The first payment shall be submitted at the time the renewal application is filed with the Board. The remaining three payments must be received by the Board on or before September 15, December 15 and March 15 respectively. A milk dealer who elects to pay the license fee in installments shall be deemed to be unlicensed if an installment is not received by the Board within the time specified.] An applicant for renewal of a milk dealer's license subject to the requirements of § 150.12(b) shall pay the fee imposed under § 150.11(b) when the applicant submits the license renewal application form provided by the Board and shall submit the monthly hundredweight fee with the report milk dealers must file under § 147.10 (relating to monthly reports).

LICENSE FEES OF [MILK] SUBDEALERS

§ 150.21. Fixed fees.

[A milk subdealer shall, as a condition of being issued a subdealer's license, or having a subdealer's license renewed, pay to the Board a fee of \$5.] (a) A new applicant

for a subdealer's license shall pay a fee of \$50 for a license issued on or after July 1 but before October 1 of the same year or a proportionate fee as follows.

(1) \$37.50 for a license issued on or after October 1 but before January 1 of the succeeding year.

(2) \$25 for a license issued on or after January 1 but before April 1 of the same year.

(3) \$12.50 for a license issued on or after April 1 but before July 1 of the same year.

(b) An applicant for annual renewal of a subdealer's license shall pay a fee of \$25.

§ 150.22. [Per hundredweight] Quart-equivalent fee.

(a) In addition to the [fixed] annual license renewal fee imposed under [in] § 150.21(b) (relating to fixed fees), a subdealer shall pay[, on] an annual [basis, a] fee calculated by dividing the total quarts of milk purchased during the previous calendar year by the number of months in which the subdealer engaged in business [on milk on which the Board sets prices as set forth in § 150.12(a) (relating to additional annual fees)]. The Board will assess the [additional] fee [shall be assessed] in accordance with the following schedule:

[Per License]	[Per License]
Avg[er]. Qts. Purchased [P]per Month	Annual Fee

(b) [In calculating the fees in this section] As used in subsection (a), [the term] "quarts" means the total volume of milk for which the Board sets a wholesale price [purchased] expressed in quart equivalents.

§ 150.23. Time for payment of fees.

[The fees in §§ 150.21 and 150.22 (relating to fixed fee; and per hundredweight fee) shall be paid to the Board at the same time the subdealer submits an application for a license, on or before June 15th of each year.]

(a) A new applicant for a subdealer's license shall pay the fee imposed under § 150.21(a) (relating to fixed fees) when the applicant submits the license application form provided by the Board.

(b) An applicant for renewal of a subdealer's license shall pay the fees imposed under §§ 150.21(b) and 150.22 (relating to quart-equivalent fee) when the applicant submits the license renewal application form provided by the Board.

[COMPUTATION OF LICENSE FEES]

§ 150.41. [Out-of-State sales.]

(a) Milk sold or distributed outside of this Commonwealth in a state which charges milk dealers or handlers a license fee may be deducted in the determination of the amount of the license fee required by this chapter, on the condition, that the quantity of milk is actually computed in determining the license fee in the other state.

(b) In computing the license fee to be charged by the Board, the fluid milk equivalent of milk other than fluid milk, shall be ascertained and fixed in a manner the Board prescribes. In the case of farm-separated sour cream used exclusively in making butter to be marketed or ultimately sold as such, the total quantity of the milk shall be computed according to pounds of butterfat or sour cream rather than the fluid milk equivalent thereof.

(c) Nothing in this section requires, in the computation of the license fee, the inclusion of milk which is received by the applicant milk dealer or handler from another milk dealer or handler, subject to license under this chapter, which milk has been included in the computation of the other dealer's fee or milk which is produced by the applicant dealer or handler and not sold by him to stores or consumers.] [Reserved.]

§ 150.42. [Exemptions.]

In the computation of a license fee, the fee will not include an amount of nonprice controlled products sold from one licensed dealer to another licensed dealer or subdealer on which the fees in §§ 150.11 - 150.13 and 150.21 - 150.23 (relating to license fees of milk dealers; and license fees of milk subdealers) have been paid by the selling dealer.] [Reserved.]

LICENSE FEES OF MILK HAULERS

§ 150.51. Fixed fees.

[A milk hauler shall, as a condition of being issued a milk hauler's license, or having a milk hauler's license renewed.] A new applicant for a milk hauler's license and an applicant for annual renewal of a milk hauler's license shall pay [to the Board] a fee of \$30.

§ 150.52. [Per] H[h]undredweight fee.

In addition to the [fixed] annual license fee imposed under [in] § 150.51 (relating to fixed fees), a [licensed] milk hauler shall pay [the sum of \$.0025 per hundredweight on milk hauled, during the licensing year July 1, 1989 to June 30, 1990, and \$.005 per hundredweight on milk hauled during licensing year July 1, 1990 to June 30, 1991 and each licensing year thereafter] a fee of \$.005 per hundredweight for milk hauled during the license year. The[se] fee[s] shall [be computed as follows] apply to:

(1) [Milk picked up at a producer's farm located outside of this Commonwealth and delivered to a dealer or handler located within this Commonwealth.] Milk picked up at a producer's farm located in this Commonwealth and delivered to a milk dealer located in this Commonwealth.

(2) [Milk picked up at a producer's farm located within this Commonwealth and delivered to a dealer or handler located within or outside this Commonwealth.] Milk picked up at a producer's farm located outside this Commonwealth and delivered to a milk dealer located in this Commonwealth.

(3) Milk picked up at a producer's farm located in this Commonwealth and delivered to a milk dealer located outside this Commonwealth.

§ 150.53. Time for and manner of payment of fees.

(a) [The fee set forth in § 150.51 (relating to fixed fee) shall be paid to the Board at the same time the milk hauler submits his application for a license, on or before June 15th of each year.] A new applicant for a milk hauler's license and an applicant for renewal of a milk hauler's license shall pay the fee imposed under § 150.51 (relating to fixed fees) when the applicant files the application form provided by the Board.

(b) Payment of the [per] hundredweight fee shall be remitted by a licensed milk hauler in full to be received in the office of the Board by the 30th day of the month immediately succeeding the month in which the milk was hauled or the nearest business day thereafter (March 1 for January reports). The payment shall accompany the Milk Hauler's Monthly Report, Form PMMB-79, which is also due on that date.

[LICENSE] CERTIFICATION FEES OF MILK TESTERS

§ 150.61. Examination [F]fee [for certificate of proficiency in milk testing].

[(a) A person desiring to take the examination prescribed by the Board to obtain a certificate of proficiency in milk testing shall pay to the Board a fee of \$25. This fee shall be paid at the same time the examination is taken.] The fee to take the Board-approved examination for a certificate of proficiency in milk testing is \$25, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees set out in § 150.62 (relating to fixed fees for new and renewed certificates).

[(b) This fee is not refundable and is not applied toward the payment of the annual milk tester's license fee.]

§ 150.62. [Annual] Fixed fees for [milk testers] new and renewed certificates.

[(a) A licensed milk tester shall, as a condition of being issued a milk tester's license, or having a milk tester's license renewed, pay to the Board a fee of \$20.] A new applicant for a milk tester's certificate and an applicant for renewal of a milk tester's certificate shall pay a fee of \$20, which shall accompany the application form provided by the Board.

[(b) This fee shall be paid to the Board at the same time the milk tester submits his application for a license, on or before December 1st of each year.]

[LICENSE] CERTIFICATION FEES OF MILK WEIGHERS AND SAMPLERS

§ 150.71. Examination [F]ee [for certificate of proficiency in milk weighing and sampling.

[(a) A person desiring to take the examination prescribed by the Board to obtain a certificate of proficiency in milk weighing and sampling shall pay to the Board a fee of \$15. The fee shall be paid at the same time the examination is taken.] The fee to take the Board-approved examination for a certificate of proficiency in milk weighing and sampling is \$25, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees set out in § 150.72 (relating to fixed fees for new and renewed certificates).

[(b) This fee is not refundable and is not applied toward the payment of the annual milk weigher and sampler's license fee.]

§ 150.72. [Annual] Fixed fees for [milk weighers and samplers] new and renewed certificates.

[(a) A licensed weigher and sampler shall, as a condition of being issued a weigher and sampler license, or having a weigher and sampler's license renewed, pay to the Board a fee of \$15.] A new applicant for a milk weigher and sampler's certificate and an applicant for renewal of a milk weigher and sampler's certificate shall pay a fee of \$20, which shall accompany the application form provided by the Board.

[(b) The fee shall be paid to the Board at the same time the weigher and sampler submits his application for a license, on or before December 1st of each year.]

OTHER FEES

§ 150.81. Transfer fee[s].

The fee [for the] to transfer [of] a license under § 407 of the Act (31 P.S. §700j-407) [from one licensed milk dealer to another licensed milk dealer] is \$50.

§ 150.82. [Miscellaneous f]Fees for copying and certifying Board documents.

[The Board shall charge and collect f]Fees for providing copies of, or for certification of, Board documents [papers, testimony and records. The fee shall be collected from the persons requesting the documents or certification and shall] will be in an amount that will fully offset the costs incurred by the Board in providing the documents or certification.

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

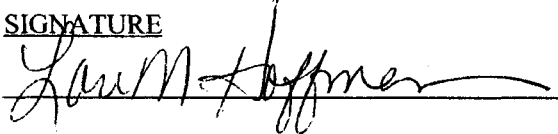
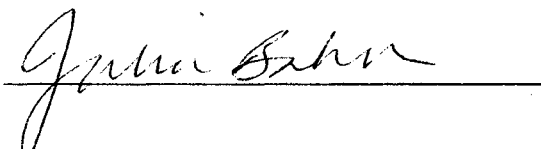
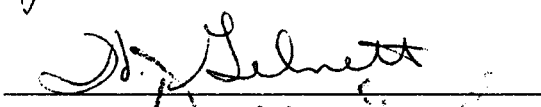
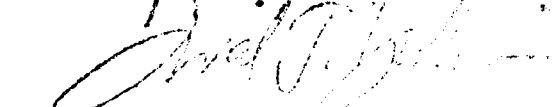

I. D. NUMBER: 47-10
SUBJECT: 7 Pa. Code Chapter 150 – Milk Marketing Board Fees
AGENCY: Milk Marketing Board

TYPE OF REGULATION

XX Proposed Regulation
_____ Final Regulation with Notice of Proposed Rulemaking Omitted
_____ Final Regulation
_____ 120-day Emergency Certification of the Attorney General
_____ 120-day Emergency Certification of the Governor

RECEIVED JUL 11 2002
LEGISLATIVE COMMISSION

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
7/29/02		<u>HOUSE COMMITTEE</u> Agriculture & Rural Affairs
7/29/02		<u>SENATE COMMITTEE</u> Agriculture & Rural Affairs
7/29/02		INDEPENDENT REGULATORY REVIEW COMMISSION
JUL 08 2002		ATTORNEY GENERAL
7/31/02		LEGISLATIVE REFERENCE BUREAU