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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

November 22, 2006

Boyd E. Wolff, Chairman
Milk Marketing Board
110 Agriculture Building
2301 North Cameron Street
Harrisburg, PA 17110

Re: Regulation #47-12 (IRRC #2564)
Milk Marketing Board
Refrigeration Equipment; Records and Reports

Dear Chairman Wolff:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director

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Enclosure

cc: Honorable Mike Waugh, Chairman, Senate Agriculture and Rural Affairs Committee
Honorable Michael A. O'Pake, Minority Chairman, Senate Agriculture and Rural Affairs Committee
Honorable Arthur D. Hershey, Majority Chairman, House Agriculture and Rural Affairs Committee
Honorable Peter J. Daley, II, Democratic Chairman, House Agriculture and Rural Affairs Committee

Comments of the Independent Regulatory Review Commission

on

Milk Marketing Board Regulation #47-12 (IRRC #2564)

Refrigeration Equipment; Records and Reports

November 22, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the September 23, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Milk Marketing Board (Board) to respond to all comments received from us or any other source.

Section 146.4. Sale of equipment. – Clarity.

We have two concerns with this section.

First, Subsection (a)(2) contains the phrase “or value of the equipment to the dealer at the time it was placed at the customer’s location....” Is this phrase referring to the value equated using the depreciation formula in Subsection (c)? If so, a cross-reference should be added. If not, then the method of how the value under Subsection (a)(2) is determined should be set forth or cross-referenced in the final-form regulation.

Second, under Subsection (d), the dealer or subdealer should maintain certain items “for review by the Board.” Board staff indicated that these items must be maintained by the dealer for two years, based on Section 701(b) of the Milk Marketing Law (31 P.S. § 700j-701(b)). This subsection should be amended in the final-form regulation to clarify how long records must be maintained by inserting a cross-reference to the appropriate section of the Milk Marketing Law.

Facsimile Cover Sheet



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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

To: Douglas Eberly
Agency: Milk Marketing Board
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Email: deberly@state.pa.us
Date: November 22, 2006
Pages: 3

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Milk Marketing Board's regulation #47-12 (IRRC #2564). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by:

Date:

11/21/06