

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Pennsylvania Milk Marketing Board

(2) I.D. Number (Governor's Office Use)

47-13

IRRC Number: 2707.

(3) Short Title

Producer receipt for farm bulk tank milk

(4) PA Code Cite

7 Pa. Code Section 143.46

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Keith Bierly, Secretary**
787-4194

Secondary Contact: **John Howard, Staff Attorney**
787-4194

(6) Type of Rulemaking (check one)

- ☐ Proposed Rulemaking
☒ Final Order Adopting Regulation
☐ Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- ☒ No
☐ Yes: By the Attorney General
☐ Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The Pennsylvania Milk Marketing Board (Board) proposes to amend 7 Pa. Code § 143.46 (relating to producer receipt for farm bulk tank milk) to read as set forth in Annex A. Currently section 143.46 of the Board's regulations requires persons who pick up bulk milk from farms to prepare a bill of lading or a similar document *in triplicate*, with one copy to be left at the farm at the time of pick-up, another to be retained by the milk hauler, and the original to be retained by the purchasing milk dealer or cooperative. The Board has interpreted this regulation to require the use of carbon paper or similar carbonless forms which make three exact copies of the bill of lading at the time it is created. Milk dealers, cooperatives, and milk haulers have asked the Board to relax this requirement to allow the use of new technology that will allow them to more efficiently record and retain the required information. The purpose of this amendment is to allow for use of other, more efficient means of preparing the bill of lading for bulk milk picked up from farms, as long as certain information, in a form approved by the Board, is left with the producer at the time the milk is picked up and also retained by the hauler and purchaser.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 307 of the Pennsylvania Milk Marketing Law (Law) (31 P.S. § 700j-307) provides the Board with the authority to adopt and enforce regulations necessary or appropriate to carry out the provisions of the Law.

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(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?

Current Board regulations require an outdated and unnecessary procedure for preparing the bill of lading for milk picked up from farms. This amendment will streamline the procedures for farm milk pick-up without sacrificing the purpose of the regulation, which is to ensure that dairy producers are paid the right amount for the milk they sell.

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

By requiring the producer, hauler and purchaser to each be given the same information at the time of milk pick-up, the regulation ensures that each party has a record of the transaction, thus reducing the chance for either error or fraud in payment of producers for their milk.

(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 amendment to the regulation will ease the regulatory burden on the approximately 126 licensed milk dealers (including cooperatives) that purchase milk from Pennsylvania producers, the 227 milk hauling companies licensed to haul the milk, and the 1552 certified weigher/samplers who weigh and sample the milk on the farm at the time of pick-up.

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(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.)

No one will be adversely affected by the regulation.

(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.)

There are approximately 126 licensed milk dealers, 227 licensed milk haulers, and 1552 certified weigher/samplers who are currently required to comply with the regulation, and who will be required to comply with the amended regulation.

(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.

On November 20, 2007 the Board, at the request of interested parties, held a meeting to receive comments and suggestions as to how this regulation could be changed to better serve the industry. Among the attendees were representatives of Land O'Lakes, Inc., Maryland and Virginia Milk Producers Cooperative, Dairy Marketing Services LLC, Dairylea Cooperative, the Pennsylvania Association of Milk Dealers, Pennsylvania Farm Bureau, Barefoot Trucking, Inc., and PMMB field staff. Based upon the suggestions of participants at this meeting, Board Staff drafted a proposed amendment which was circulated via e-mail to the interested parties. One of the parties suggested a minor change, which was agreed to by the other parties, and which has been incorporated into the proposed amendment.

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(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 regulated community will incur no costs associated with compliance with the regulation.

The regulated community may incur some savings, which cannot be specifically estimated, as a result of the elimination of the requirement the producer receipts for farm bulk milk be made out in triplicate.

(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 costs and/or savings to state government associated with implementation of the regulation.

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(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	FY +1	FY +2	FY +3	FY +4	FY +5
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	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:						
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 Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

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

The Board believes that that there will be no costs or revenue losses by the regulated community, local government, or state government due to this amendment. The Board believes that the regulated community may incur some savings in time by not having to prepare the bill of lading in triplicate, but the Board is not able to quantify any dollar value for such savings.

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

Program	FY -3	FY -2	FY -1	Current FY
	\$0	\$0	\$0	\$0

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

Since no one is adversely affected by the amendments to the regulations, the benefits (i.e. less paperwork due to elimination of requirement of triplicate receipts) clearly outweigh adverse effects.

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

None – the amendment simply eases somewhat the existing regulatory burden.

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

The alternative to the amendment was to leave the regulation as currently written, which would have maintained the requirement for bills of lading in triplicate. The Board dismissed this option because it was a regulatory requirement that had outlived its usefulness.

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(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?

This regulation is similar to that of other states and the Federal Pasteurized Milk Ordinance. It will not put Pennsylvania at a competitive disadvantage with other states.

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

No.

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

No additional public hearings or informational meetings with the industry are contemplated.

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(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.

The amendment will not require any paperwork in addition to that already required under the existing regulations; however it may allow the required records to be produced and kept in a different and possibly more efficient form by the parties required to keep such information.

(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.

A provision has been added to this section to protect dairy producers in the event that there is a discrepancy between the quantity of milk recorded for the producer's records and that recorded for retention by the hauler or purchaser. The amendment to the regulation provides that in such case, the producer is to be paid based upon the highest quantity of milk recorded that can be correlated back to the calibration chart.

(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?

The regulation will be effective upon publication in the *Pennsylvania Bulletin*, anticipated to be no later than December 1, 2008. Compliance with the regulation will be required as of the effective date. No additional permits or licenses will be required.

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

This regulation will be reviewed on an ongoing basis to ensure that the intent of the regulation is being met.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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REVIEW COMMISSION

2707

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Copy below is hereby approved as to
form and legality. Attorney General

BY: _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

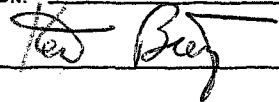
☐ Check if applicable
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attached.

Copy below is hereby certified to be a true and correct copy
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Pennsylvania Milk Marketing Board
(AGENCY)

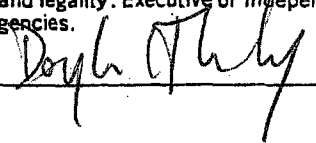
DOCUMENT/FISCAL NOTE NO. 47-13

DATE OF ADOPTION: September 30, 2008

BY: 

TITLE: Secretary
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to
form and legality. Executive or Independent
Agencies.

BY: 

September 30, 2008

DATE OF APPROVAL

~~-(Deputy General Counsel)~~
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

☐ Check if applicable. No Attorney General
approval or objection within 30
days after submission.

PENNSYLVANIA MILK MARKETING BOARD

(7 Pa. Code Section 143.46)

Producer receipt for farm bulk tank milk

The Pennsylvania Milk Marketing Board (Board) amends 7 Pa. Code § 143.46 (relating to producer receipt for farm bulk tank milk) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 38 Pa.B. 3819 (Saturday, July 12, 2008) with an invitation to submit written comments within 30 days. The Board received no comments during the public comment period. The Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee offered no comments, suggestions, or objections to the amendment. The Independent Regulatory Review Commission (IRRC) offered no recommendations, comments, or objections to the amendment. No changes have been made from the proposed rulemaking to this final-form rulemaking.

In final-form rulemaking, the Board considered this rulemaking and its purpose under the directives of Executive Order 1996-1, "Regulatory Review and Promulgation."

Purpose

Currently section 143.46 of the Board's regulations requires persons who pick up bulk milk from farms to prepare a bill of lading or a similar document *in triplicate*, with one copy to be left at the farm at the time of pick-up, another to be retained by the milk hauler, and the original to be retained by the purchasing milk dealer or cooperative. The Board has interpreted this regulation to require the use of carbon paper or similar carbonless forms which make three exact copies of the bill of lading at the time it is created. Milk dealers, cooperatives, and milk haulers have asked the Board to relax this requirement to allow the use of new technology that will allow them to more efficiently record and retain the required information. The purpose of this amendment is to allow for use of other, more efficient means of preparing the bill of lading for bulk milk picked up from farms, as long as certain information, in a form approved by the Board, is left with the producer at the time the milk is picked up and also retained by the hauler and purchaser.

Comments

The Board received no comments during the public comment period. IRRC, The Senate Committee on Agriculture and Rural Affairs, and the House Agriculture and Rural Affairs Committee offered no comments, suggestions, or objections to the amendment.

Paperwork Estimates

There will be no additional paperwork requirements due to this amendment. If anything, paperwork requirements may be reduced because the amendment eliminates the

requirement of a bill of lading made out in triplicate.

Fiscal impact

The Board believes that adoption of this amendment will save time and eliminate the need for unnecessary paperwork for milk haulers, milk cooperatives and milk dealers, and thus will have a positive fiscal impact on these businesses.

Effective date

The amendment will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset date

There is no sunset date.

Regulatory review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking published at 38 Pa.B. 3819 (Saturday, July 12, 2008) to IRRC and to the Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee for review and comment.

In addition to submitting the final form regulation, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request. This material is also available on the Board's website at <http://www.mmb.state.pa.us>.

Contact Person

The official responsible for information on these final form regulations is Keith Bierly, Secretary, Pennsylvania Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4194.

Findings

The Board finds that:

(1) Public notice of the intention to adopt the final-form rulemaking was given under sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law.

(3) The final-form rulemaking is necessary and appropriate for the administration of the act.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 7 Pa. Code § 143.46, are amended to read as set forth in Annex A.

(b) The Board will submit this order and Annex A to the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(f) The order shall take effect upon final-form publication in the *Pennsylvania Bulletin*.

Richard Kriebel,
Chairman

ANNEX A

§ 143.46. Producer receipt for farm bulk [tank] milk.

(a) Pick-up of farm bulk [tank] milk shall be supported by a bill of lading or similar document [made out in triplicate] either by Board-approved electronic media or paper document and containing the following information:

- (1) Date of pick-up and time.
- (2) Name or number of a producer.
- (3) Pounds or gallons or similar metric equivalent of milk.
- (4) Milk hauler's license number assigned by the Board.
- (5) Signature, or electronic equivalent, [of the person picking up the milk] together with the certificate number of the weigher/sampler picking up the milk.
- (6) Temperature of the milk at the time of pick-up.

(b) [One copy of the document] The information required by subsection (a) of this section shall be left with each producer at the time of pick-up. [; one copy] The same information shall be retained by the milk hauler for a period of 90 days; and the [original] same information shall be retained by the purchasing milk dealer or cooperative for a period of 90 days. In the event that the quantity of milk recorded and left with the producer at the time of pick-up differs from either the hauler information or the information retained by the dealer or cooperative, the producer shall be paid based on the highest quantity of milk recorded that can be correlated back to the calibration chart.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

ID. NUMBER: 47-13

SUBJECT: Producer receipt for farm bulk tank milk

AGENCY: Pennsylvania Milk Marketing Board

TYPE OF REGULATION

Proposed Regulation

XX Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

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REVIEW COMMISSION

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FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

10/6/08 *Naferm Jones*

HOUSE COMMITTEE ON Agriculture & Rural Affairs

10/6/08 *Cathy Waddington*

SENATE COMMITTEE ON Agriculture & Rural Affairs

10/6 *D. Sellers*

10/06 *Judy Metz Eagle*

10/16/08 *Kathy Cooper*

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL

LEGISLATIVE REFERENCE BUREAU

April 20, 2001