



**Pennsylvania
Association for
Sustainable Agriculture**

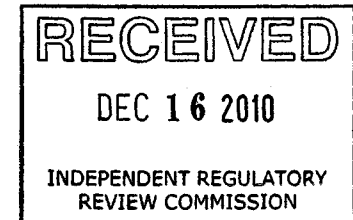
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To: Pennsylvania Independent Regulatory Review Commission (IRRC)

From: Brian Snyder
Executive Director
Pennsylvania Association for Sustainable Agriculture (PASA)

Date: December 16, 2010

Re: PA Department of Agriculture Final Regulation #2-160 (IRRC #2777): "Milk Sanitation"



Dear Commissioners,

My name is Brian Snyder, and I represent the nearly 6,000 members of the Pennsylvania Association for Sustainable Agriculture (PASA). I previously offered our organization's views on the proposed Milk Sanitation regulations at your meeting on October 7, 2010. With regard to that previous meeting, I must acknowledge that it may have been very different from other public meetings you have held, and in some respects it may have seemed that the audience acted inappropriately, especially in celebrating the decision made that day.

But I do want you to know that in dozens of conversations since, I have heard the very sincere words of ordinary people whose faith in government was at least partially restored as a result of that meeting, and as a result of the process that has followed it. I am new to the regulatory process in general, but from what I have seen so far, you should never underestimate the role this commission serves as the last refuge of citizens who may otherwise have been left out of the process of creating appropriate regulations by which they shall be governed. In brief, thank you for your very effective and timely help in getting these regulations closer to a form that can be respected by everyone affected.

I also want to thank Secretary Russell Redding and members of his staff at the Pennsylvania Department of Agriculture (PDA) who, I think, responded in a very positive manner, if somewhat narrowly, to the orders issued by the IRRC following the October 7 meeting. The follow-up meeting with permitted raw milk producers held at the Farm Show Complex was very productive, and I think surprised folks at PDA in terms of how reasonable these farmers can be when approached in a forthright and honorable way. It is regrettable that such open meetings were not held more frequently over the past year, addressing several other issues that remain in the current draft of regulations. Such a strategy could have avoided the need to rely so completely on the IRRC for help in the making the process more productive. Hopefully, this series of events will get chalked up as a big "lesson learned" for everyone involved.

Reflecting now on the meeting that was hosted by PDA at the Farm Show Complex on November 19, in addition to the positive changes that were announced at that time regarding requirements for extra rooms and mechanical equipment for bottling raw milk, there were several other issues that were addressed. We wish to record some points in the permanent record of these proceedings for the sake of future reference.

It was our understanding that the following additional points were agreed to, though not specifically mentioned in the new draft of regulations:

1. The provision that "all containers shall be filled and closed without any part of the hand coming in contact with the inner surface of the bottle or container or in contact with the bottle caps" can be satisfied by the farmer wearing a "pre-sanitized, food-grade glove."

2. On the topic of routine tests for antibiotic contamination in milk, PDA believes that farms having achieved organic certification, or another relevant form of certification, should be eligible to have such testing requirements waved.
3. PDA is committed to giving farmers the choice of approved laboratories where routine testing for pathogens may be conducted, and to working out a procedure for dealing with any inconsistent results between labs.
4. In terms of what happens to milk once it is sold to consumers, PDA's interest is that the milk be produced by farmers with a valid permit, and does not extend into whatever private arrangements may have been agreed to between the permit holder and individual consumers to whom direct sales are completed.

There are also some important issues that were not resolved at the November 19 meeting, which I also will enumerate at this time, as follows:

1. It is the strong feeling of many folks that the line between direct and indirect sales from farmers to consumers should be determined more broadly than PDA has allowed, to include consideration for transactions at farmers markets. Specifically, we feel that sales completed directly by a farmer, his/her family or staff at such a market should be considered the same as an on-farm sale. To that end, please note a recent memo attached to this testimony from the Executive Director of the national Farmers Market Coalition.
2. Many farmers believe that, in the case where no illnesses have been reported, a single positive test for pathogen presence in milk should be corroborated by a second positive test before a permit is suspended and the public notified. This mirrors the procedure any such farmer must follow to have the permit reinstated (i.e. two consecutive negative tests), and helps to avoid a situation where the farmer's reputation is unnecessarily damaged beyond full repair.
3. We still don't know what will happen with all the farmers selling bottled raw milk and raw milk cheeses who do not meet the "separate room" requirements, even though their avoidance of such longstanding regulations has been supported and even encouraged by PDA inspectors thus far. If stricter enforcement is forthcoming, will these producers be grandfathered? This has been a significant subtext of the ongoing controversy over the newly proposed regulation, and has not been sufficiently acknowledged.
4. The potential value of meetings such as the one that occurred on November 19 is beyond question, but it remains to be seen if they will occur without an alternative authority within the government, like the IRRC, prompting them to occur. Is there any way that at least an annual meeting between PDA officials and raw milk permit holders can be instituted for certain?

Having clarified these understandings and ongoing concerns, PASA does not feel there is any point in trying to dissuade the IRRC from voting to accept the proposed regulations as amended. It is clear that further improvements will need to be assured by a combination of wise discretion at PDA, and by working with the legislature to bring new statutory language to bear on the subject of raw milk sales. These are the areas where we will focus our efforts in the immediate future.

Again, we wish to thank the commissioners for your very diligent and thoughtful attention to these issues that affect Pennsylvania farmers and consumers alike. We are very hopeful that the process we have all been through will improve not only ongoing efforts to meet the growing demand for raw milk products in the Commonwealth, but also the relationship of PDA with its own permit holders for the long-term future.



November 18, 2010

The Honorable Russell C. Redding, Secretary
Pennsylvania Department of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408

Dear Secretary Redding,

On behalf of the National Farmers Market Coalition, I want to applaud your recent efforts to reach out to the farming community of raw milk permit holders since the October 7th IRRC hearing. In advance of the November 19th meeting, I want to take this opportunity to share with you some concerns I have regarding the provisions subject to revision in Pennsylvania's Milk Sanitation regulations.

In consideration of where to draw the line with regard to requiring extra rooms and mechanical means for filling and capping, I urge you to consider sales of milk at farmers markets as 'on farm' sales. Farmers markets offer agricultural producers valuable sales while also providing unique opportunities for consumers to ask questions and learn about all aspects of farming and production practices. As I'm sure you'd agree, this level of direct, face-to-face accountability is simply not present in a traditional retail environment in which transactions do not occur directly between the farmer and end-consumer. What distinguish farmers markets, in essence, are the relationships they foster, empowering greater understanding of any food's origins and a renewed emphasis on community engagement.

Pennsylvania would not be alone in applying the same regulations to transactions at legitimate farmers markets as with on-farm sales. In Connecticut, for example, the Definition of a Farmers Market (Public Act 06-52) establishes the farmer's kiosk at a market as an extension of the farmer's business, and states that the laws and regulations applied to selling products on a farm shall apply to selling products at such a kiosk.

http://www.ct.gov/doag/lib/doag/marketing_files/03.statute_2-17-2010.pdf.

Please be aware that your regulatory decisions do not happen in a vacuum, but are being watched by farmers market advocates in several states, including Oregon, Illinois, Maryland, and many others where farmers markets are a rapidly growing agricultural and economic sector. In Pennsylvania's 215 farmers markets, hundreds of thousands of consumers are building meaningful relationships with agricultural producers every week. We urge you to make decisions that facilitate, not impede, these win-win connections between Pennsylvania dairy farmers looking for viable marketing alternatives and the consumers eager to support them.

Thank you for your continued commitment to supporting sustainable food systems in Pennsylvania.

Sincerely,

A handwritten signature in black ink that reads "Stacy Miller".

Stacy Miller, Executive Director
Farmers Market Coalition

cc: William Chirdon, Director, Food Safety and Laboratory Service, PA Department of Agriculture
Brian Snyder, Executive Director, Pennsylvania Association for Sustainable Agriculture

Farmers markets are good for everyone. Join us to make them even better.

farmers • consumers • communities
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