

Regulatory Analysis Form

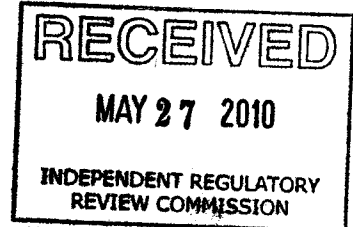
This space for use by IRRC

(1) Agency

Pennsylvania Milk Marketing Board

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

47-14



IRRC Number:

2853

(3) Short Title

**Transactions between dealers and producers – Weighing and sampling of direct load milk;
Producer receipt for farm bulk milk.**

(4) PA Code Cite

7 Pa. Code Chapter 143

(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 purpose of the amendment is to establish regulations to govern the weighing and sampling of milk when it is loaded directly from the milking parlor or milkhouse on a dairy farm into a movable bulk milk tanker for transportation. Most milk produced on Pennsylvania dairy farms is pumped into bulk tanks on the farm for cooling and storage, and is picked up every day or every other day and loaded onto bulk milk tankers for transport to the processor. Current Board regulations establish procedures to ensure accurate weighing and sampling of this milk for purposes of payment to producers, and require a receipt for the milk to be left with the producer at the time of pickup. While the number of dairy herds in Pennsylvania is decreasing, the average size of dairy herds in the state is increasing. Many Pennsylvania dairy herds now produce enough milk to fill a semi-trailer bulk milk tanker in 24 hours or less. In these cases it is more efficient and cost effective to rapidly cool the milk and pump it directly onto a bulk milk tanker rather than storing the milk in a bulk tank for later pickup and transport. The existing regulations rely upon bulk tank calibration charts to determine the volume of milk, and require agitation by means of the bulk tank agitator prior to sampling of milk in a stationary on-farm bulk tank, and therefore will not work for milk loaded directly into mobile bulk tankers. Currently there are several Pennsylvania farms direct-loading their milk, using a variety of methods for weighing and sampling that milk. The proposed regulations will establish uniform procedures to ensure the accurate weighing and sampling of this milk and will also modify the requirements for the producer's receipt for direct load milk.

The proposed amendment adds a new section 143.29, weighing and sampling of direct load milk, to Chapter 143 (relating to transactions between dealers and producers) of the regulations of the Board. This section defines direct load milk as “[p]roducer milk that is loaded directly from the farm milking parlor into a bulk milk tanker, and is not weighed and/or sampled by means of an on-farm bulk tank.” The proposed regulation (1) allows for weighing of direct load milk either by scales or by means of a mass flow meter and sets out the procedures that must be followed for each method to ensure accuracy; (2) establishes procedures for sampling of milk, including proper agitation before sampling to ensure a representative sample is obtained; and (3) allows the Board to approve other methods of weighing/measuring, agitation and sampling of direct load milk on a case-by-case basis.

(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.

(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?

Section 608 of the Law states that “It shall be unlawful for . . . any milk dealer to . . . weigh, measure, sample or test milk . . . in such manner as to cause or tend to cause loss or injury to milk producers . . .” In furtherance of that section of the law, current Board regulations establish procedures for accurate weighing and sampling of producers’ milk from on-farm stationary bulk tanks to ensure proper payment for milk. However, the current regulations do not address transactions in which milk does not ever go into a bulk tank on the farm but instead is pumped directly into bulk milk tank trucks for immediate transport. The Board believes it is in the public interest that all dairy producers are fully paid for all the milk they sell and that all milk dealers receive the full amount of milk they are paying for, thus these transactions should be regulated just as milk weighed and sampled in farm bulk tanks.

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

Without regulation of these transactions the potential exists for large dairy producers who load their milk directly onto bulk tankers to receive less than full payment for the milk they sell, and for dealers to receive less milk or components than they are paying for.

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

Dairy producers who produce enough milk to fill a bulk milk tanker each day and load their milk directly onto these tankers, and milk dealers who purchase this milk will both benefit by having uniform standards and procedures to ensure the accurate measurement and sampling of this milk. This will ensure that the producers are receiving full payment for the milk they sell, and that the dealers are receiving all the milk and components they are paying for. The Board is aware of at least five farms that are already direct-loading milk in Pennsylvania. The Board expects this number to increase as farms continue to expand look for ways to cut costs.

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.)

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.)

The Board is aware of at least five farms that are already direct-loading milk in Pennsylvania. These producers, as well as the dealers who buy their milk, the haulers who haul the milk, and the weigher/samplers who weigh and sample the milk will be required to comply with the 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 December 15, 2004, the Board, after due notice, conducted a public hearing to receive comments on the proposed amendment. Among the attendees were representatives of the Pennsylvania Department of Agriculture Bureau of Ride and Measurement Standards, the Pennsylvania Department of Agriculture Division of Milk Sanitation, Pennsylvania milk sanitarians, milk marketing cooperatives, Pennsylvania Farm Bureau, and Pennsylvania Milk Marketing Board Staff. As a result of the discussion and comments at that public hearing, the proposed amendment was drafted and circulated among the attendees to receive further comment. The proposed amendment was further revised as a result of that process. Board Staff then conducted on-farm visits with several Pennsylvania producers who are already direct-loading their milk for transport. Staff observed the procedures currently being used on these farms and received comments from these producers regarding the proposed regulations. Based upon these observations and discussions, a final draft was prepared and circulated among all the interested parties, including the producers, for their review. The proposed form regulation is the result of the foregoing process.

Regulatory Analysis Form

(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, by being able to save the step of pumping milk from bulk tanks into tankers for transport.

(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.

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	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 and efficiency by being able to save the step of pumping milk from bulk tanks into tankers for transport, but the Board is not able to quantify any dollar value for such savings.

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
	\$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. assurance of accurate milk weights and samples) clearly outweigh adverse effects.

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

The only nonregulatory alternative considered was to exempt these transactions between milk dealers and producers from regulation entirely. In that case, the producers and the dealers who purchase their milk would be free to negotiate their own terms and methods for weighing and sampling the milk, as they are doing now. The Board dismissed this alternative after Board Staff visited several farms to observe the procedures currently being used, and determined that the potential exists for underpayment to producers, which is unlawful under section 608 of the Law, as well as the possibility that dealers might not receive all the milk or components they are paying for.

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

The regulatory alternative would be to require all milk to be weighed and sampled in bulk tanks on the farm before being loaded onto tankers. The Board dismissed this alternative because it would have placed an unreasonable burden, both in terms of time and financial expense, on large producers, the dealers who buy their milk, and the haulers who haul the milk.

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?

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.

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.

The amendment requires additional information pertaining to the method of weighing and sampling to be included on the producer's receipt for milk picked up from farms, but relaxes the requirement that the receipt be left at the farm at the time of pick-up.

(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.

None.

(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?

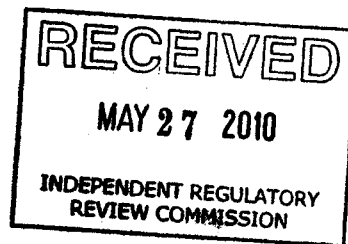
The regulation will be effective upon publication in the *Pennsylvania Bulletin*, anticipated to be no later than December 1, 2010. Compliance with the regulation will be required as of the effective date. No additional permits or licenses will be required.

(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)



DO NOT WRITE IN THIS SPACE

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

[Signature]
BY: _____
(DEPUTY ATTORNEY GENERAL)

MAY 24 2010
DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Milk Marketing Board
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 47-14

DATE OF ADOPTION: May 10, 2010

BY: *[Signature]*

TITLE: Secretary
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

BY: *[Signature]*

May 10, 2010
DATE OF APPROVAL

~~XXXXXXXXXXXXXXXXXXXX~~
(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 Chapter 143)

Transactions between dealers and producers

The Pennsylvania Milk Marketing Board (Board) proposes to amend 7 Pa. Code Chapter 143 (relating to transactions between dealers and producers) to add a new section 143.29 (relating to weighing and sampling of direct load milk) and to add a new subsection (c) to section 143.46 (relating to producer receipt for farm bulk milk) as set forth in Annex A.

Purpose of proposed amendment

The purpose of the amendment is to establish regulations to govern the weighing and sampling of milk when it is loaded directly from the milking parlor or milkhouse on a dairy farm into a movable bulk milk tanker for transportation. Most milk produced on Pennsylvania dairy farms is pumped into bulk tanks on the farm for cooling and storage, and is picked up every day or every other day and loaded onto bulk milk tankers for transport to the processor. Current Board regulations establish procedures to ensure accurate weighing and sampling of this milk for purposes of payment to producers, and require a receipt for the milk to be left with the producer at the time of pickup. While the number of dairy herds in Pennsylvania is decreasing, the average size of dairy herds in the state is increasing. Many Pennsylvania dairy herds now produce enough milk to fill a semi-trailer bulk milk tanker in 24 hours or less. In these cases it is more efficient and cost effective to rapidly cool the milk and pump it directly onto a bulk milk tanker rather than storing the milk in a bulk tank for later pickup and transport. The existing regulations rely upon bulk tank calibration charts to determine the volume of milk, and require agitation by means of the bulk tank agitator prior to sampling of milk in a stationary on-farm bulk tank, and therefore will not work for milk loaded directly into mobile bulk tankers. Currently there are several Pennsylvania farms direct-loading their milk, using a variety of methods for weighing and sampling that milk. The proposed regulations will establish uniform procedures to ensure the accurate weighing and sampling of this milk and will also modify the requirements for the producer's receipt for direct load milk.

Summary of proposed amendments

The proposed amendment adds a new section 143.29, weighing and sampling of direct load milk, to Chapter 143 (relating to transactions between dealers and producers) of the regulations of the Board. This section defines direct load milk as “[p]roducer milk that is loaded directly from the farm milking parlor into a bulk milk tanker, and is not weighed and/or sampled by means of an on-farm bulk tank.” The proposed regulation (1) allows for weighing of direct load milk either by scales or by means of a mass flow meter and sets out the procedures that must be followed for each method to ensure accuracy; (2) establishes procedures for sampling of milk, including proper agitation before sampling to ensure a representative sample is obtained; and (3) allows the Board to approve other methods of weighing/measuring, agitation and sampling of direct load milk on a case-by-case basis.

The proposed amendment also adds a new subsection (c) to section 143.46 (relating to producer receipt for farm bulk milk) which requires additional information pertaining to the method of weighing and sampling to be included on the producer's receipt, but which relaxes the requirement that the receipt be left at the farm at the time of pick-up, since in many cases the milk will not be weighed or sampled before leaving the farm.

Statutory authority

Section 307 of the 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.

Public hearing

On December 15, 2004, the Board, after due notice, conducted a public hearing to receive comments on the proposed amendment. Among the attendees were representatives of the Pennsylvania Department of Agriculture Bureau of Ride and Measurement Standards, the Pennsylvania Department of Agriculture Division of Milk Sanitation, Pennsylvania milk sanitarians, milk marketing cooperatives, Pennsylvania Farm Bureau, and Pennsylvania Milk Marketing Board Staff. As a result of the discussion and comments at that public hearing, the proposed amendment was drafted and circulated among the attendees to receive further comment. The proposed amendment was further revised as a result of that process. Board Staff then conducted on-farm visits with several Pennsylvania producers who are already direct-loading their milk for transport. Staff observed the procedures currently being used on these farms and received comments from these producers regarding the proposed regulations. Based upon these observations and discussions, a final draft was prepared and circulated among all the interested parties, including the producers, for their review. The proposed form regulation is the result of the foregoing process.

Fiscal impact

The proposed amendment will have no fiscal impact on the majority of dairy producers who still store milk in bulk tanks, nor on the buyers or haulers of that milk. The amendment should not have a negative fiscal impact on those few producers, haulers, weigher/samplers or dealers who will be affected by the regulations. These affected persons may see a positive fiscal impact in the form of time savings and increased efficiency by being able to eliminate the step of pumping milk from bulk tanks into tankers for transport.

Paperwork requirements

The amendment requires additional information pertaining to the method of weighing and sampling to be included on the producer's receipt for milk picked up from farms, but relaxes the requirement that the receipt be left at the farm at the time of pick-up.

Effective date; sunset date

The amendments will become effective upon publication in the *Pennsylvania Bulletin* as final rulemaking. There is no sunset date.

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 Chief Counsel, Pennsylvania Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, within 30 days following publication in the *Pennsylvania Bulletin*.

Richard Kriebel
Chairman

ANNEX A

§ 143.29. Weighing and sampling of direct load milk.

(a) *Definitions.*

Bulk Milk Tanker/Tanker – A mobile bulk container used to transport milk or fluid milk products in bulk from a dairy farm, or to or from a dairy processing plant which is designed to be towed by a motor vehicle, and includes all equipment and accessories related to the mobile bulk container.

Direct Load Milk – Producer milk that is loaded directly from the farm milking parlor into a bulk milk tanker, and is not weighed and/or sampled by means of an on-farm bulk tank.

Milk Sanitation Division – The Pennsylvania Department of Agriculture, Bureau of Food Safety and Laboratory Services, Milk Sanitation Division.

Bureau of Ride and Measurement Standards – The Pennsylvania Department of Agriculture, Bureau of Ride and Measurement Standards.

(b) *General.*

(1) For purposes of payment to producers, direct load milk shall be weighed and sampled in accordance with the provisions of this section.

(2) Sampling and weighing of direct load milk shall take place as close as practicable to the farm and shall take place in Pennsylvania or in a state with a reciprocal agreement for recognition of direct load weighing and sampling methods.

(3) An in-line temperature recorder and indicating thermometer must be located between the chiller and the bulk milk tanker to record the temperature of the milk.

(4) Direct load milk shall be weighed and sampled by a weigher/sampler certified by the Board for direct load milk pickup.

(5) The provisions of this section do not replace or supersede any of the requirements, standards, and procedures for weighing and sampling of milk established by the Bureau of Ride and Measurement Standards or the Milk Sanitation Division.

(c) *Weighing.* Direct load milk weight shall be established by type-approved scales of appropriate size and location, tested and approved by the Bureau of Ride and Measurement Standards or by a mass flow meter certified to be in compliance with National Institute of Standards Technology (NIST) Handbook 44 and tested and approved by the Bureau of Ride and Measurement Standards.

(1) *Weighing by scales.*

(i) Scale weight shall be certified by a person licensed as a public weighmaster by the Bureau of Ride and Measurement Standards.

(ii) All snow, ice, mud, and other debris shall be removed from the bulk milk tanker before weighing on scales.

(iii) All weighing methods shall comply with the Consolidated Weights and Measures Act (3 Pa. C.S. § 4101, *et seq.*)

(iv) The weighmaster shall complete and provide to the weigher/sampler, at the time of weighing, a weigh slip approved by the Bureau of Ride and Measurement Standards. Weigh slips with the weighmaster's license number shall be deemed to be completed by the weighmaster, in accordance with section 4153 of the Consolidated Weights and Measures Act (3 Pa C.S. § 4153).

(A) A licensed public weighmaster shall not enter on a weighmaster's certificate issued by the weighmaster any weight values which the weighmaster has not personally determined, and the weighmaster shall make no entries on a weighmaster's certificate issued by another person.

(B) A weighmaster's certificate shall be so prepared as to show clearly what weight or weights were actually determined.

(C) If the certificate form provides for the entry of gross, tare and net weights in any case in which only the gross, the tare or the net weight is determined by the weighmaster, he shall strike through or otherwise cancel the printed entries for the weights not determined or computed.

(D) If gross and tare weights are shown on a weighmaster's certificate and both of these were not determined on the same scale and on the day for which the certificate is dated, the weighmaster shall identify on the certificate the scale used for determining each weight and the date of each determination .

(v) A standard empty weight may be established for a tanker that is regularly used to haul direct load milk from a producer.

(A) The standard empty weight shall be established at least every month.

(B) The producer shall maintain a record for each tanker, and a copy of the record must be kept with each tanker and available on demand, with the following information:

(I) Tanker serial number.

(II) Manufacturer's rated capacity of the tanker.

(III) Date tanker was put into service hauling direct load milk of the producer.

(IV) Date and location of the scale where the standard empty weight was last established

(V) Whether or not tanker was equipped with a spare tire when the standard empty weight was last established.

(C) After the standard empty weight is established, the tanker shall be equipped with the same spare tire, or not be equipped with a spare tire, whichever was the case when the standard empty weight was last established.

(D) If any tires are changed, any maintenance is performed that may affect the weight of the tanker, or any other equipment or utensils are attached to the tanker, the standard empty weight of the tanker shall be established before the tanker is placed back into service.

(vi) Any tanker for which a standard empty weight has not been established shall be weighed before each loading.

(A) The empty tanker weight may be established by unhooking the tanker on the scales and weighing the tanker alone.

(B) A tractor and empty tanker combination may be weighed together if either: (1) the tractor and tanker will remain coupled until after the milk is loaded onto the tanker at the farm and the tractor and loaded tanker combination is re-weighed; or (2) the tractor and loaded tanker combination is weighed at or near a Pennsylvania dairy before unloading at the dairy, and the tractor and empty tanker combination is re-weighed after unloading at or near the dairy where unloaded.

(vii) To establish milk weight, subtract the weight of the empty tanker or combination from the weight of the loaded tanker or combination.

(A) The loaded tanker weight may be established by unhooking the tanker on the scales and weighing the tanker alone.

(B) If a loaded tanker will not be unhooked from the tractor when weighing the loaded tanker, then the weight of the tractor shall be established independently before hooking on to the loaded tanker. In this case the tractor weight shall be added to the empty weight of the tanker to establish the empty weight of the combination.

(viii) When a tractor is weighed, either alone or in combination with an empty or loaded tanker, the weigher/sampler shall account for the weight of the fuel as follows:

(A) If the tractor has traveled 15 miles or more between weighing empty and weighing loaded, the weigher/sampler shall account for the weight of the fuel consumed by subtracting 20 pounds from the empty weight of the tractor for every 15 miles traveled.

(B) If the tractor has been refueled between weighing empty and weighing loaded, the weigher/sampler shall account for the additional weight of the fuel by adding 7.15 pounds to the weight of the tractor for every gallon of fuel added.

(2) *Meter weight.*

(i) Only a food grade, 3-A approved, volumetric flow meter capable of direct pound computations approved by the Board and by the Milk Sanitation Division may be used for establishing milk weight.

(ii) A meter shall be installed by an installer or repairperson registered by the Bureau of Ride and Measurement Standards.

(iii) Meters shall be National Type Evaluation Program approved, tested and approved by the Bureau of Ride and Measurement Standards, and certified for custody transfer.

(iv) The Bureau of Ride and Measurement Standards, shall annually inspect, test and approve these meters.

(v) The meter must be positioned at a stationary point between the chiller and the milk tanker.

(vi) The weigher/sampler shall permanently record on paper:

(A) Manufacturer's rated capacity of the tanker.

(B) The date and time the milk tanker began and ended filling.

(C) The meter weight of the milk that entered the milk tanker.

(D) The date that the meter was last verified for accuracy.

(3) *Other weighing and/or measuring devices.* Other weighing and/or measuring devices may be approved on a case-by-case basis by the Bureau of Ride and Measurement Standards and the Pennsylvania Milk Marketing Board.

(d) *Sampling.*

(1) Samples shall comply with §§ 143.23, 143.26, and 143.27 of the Regulations of the Board.

(2) Samples shall only be taken after agitation sufficient to ensure that the milk is in a homogenous condition by one of the following methods:

(i) *In-tanker agitation.*

(A) Agitation by a mechanical device placed inside the tanker may be used if the agitation method and equipment are approved by the Board.

(B) Sampling shall take place immediately when the agitator is turned off.

(ii) *Over-the-road agitation.*

(A) Agitation by the normal movement of the milk inside the tanker during transport over the road may be used only when the tanker is filled to no more than 97% of the tanker manufacturer's rated volumetric capacity.

(B) A sensor, metering device, or other measurement strategy, coupled with an automatic shut-off or alarm system shall be used to ensure that the tanker is filled to not more than 97% of its rated capacity.

(C) Agitation shall take place in not less than a three mile trip during which at least 3 stops and starts shall have occurred.

(D) Sampling shall take place without delay, but no longer than 5 minutes after the tanker has stopped, and the sample shall be taken from the hatch in accordance with the guidelines of the Milk Sanitation Division.

(iii) *Other agitation methods.* Other agitation methods, such as air agitation, may be used if the agitation method has been certified as effective in at least five repeatable trials and if the method is approved by the Milk Sanitation Division. The Board will provide testing and certification of such other agitation methods on a case-by-case basis.

(3) *Other sampling methods.* Other sampling methods, including in-line sampling devices, may be approved by the Board on a case-by-case basis.

§ 143.46. Producer receipt for farm bulk milk.

* * *

(c) For direct load milk weighed and sampled pursuant to §143.29, relating to weighing and sampling of direct load milk, the following provisions apply:

(1) In addition to the information required under subsection (a) of this section, the bill of lading or similar document must also contain:

(i) When milk weight is established by scales, a copy of the weigh slip required by subparagraph (c)(1)(iv) of §143.29, relating to weighing and sampling of direct load milk.

(ii) When milk weight is established by a flow meter, a copy of the information required by subparagraph (c)(2)(vi) of §143.29, relating to weighing and sampling of direct load milk.

(iii) Method of sampling.

(iv) Method of agitation, if applicable.

(2) If weighing and sampling was done at the farm, the information shall be left with the producer at the time of pick-up. If weighing or sampling was done at a distant location, the information shall be provided to the producer within 24 hours of pick-up, or at the time the next tanker is picked up, whichever is earlier.

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

LD. NUMBER: 47-14

SUBJECT: Transactions between dealers and producers - Weighing and sampling of direct load milk; Producer receipt for farm bulk milk.

AGENCY: Pennsylvania Milk Marketing Board

RECEIVED
MAY 27 2010
INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

Proposed Regulation

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**

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
5-27-10	<i>Maaya Jones</i>	HOUSE COMMITTEE ON Agriculture & Rural Affairs
5-27-10	<i>Mary Deiger</i>	
5-27-10	<i>K. Zell</i>	SENATE COMMITTEE ON Agriculture & Rural Affairs
05-27-10	<i>Judith M. Eagle</i>	
5/27/10	<i>J. Robert</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
5-11-10	<i>M. Yumment</i>	ATTORNEY GENERAL
5/27/10	<i>Maaya Garcia</i>	LEGISLATIVE REFERENCE BUREAU

April 20, 2001