

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><i>(All Comments submitted on this regulation will appear on IRRC's website)</i></p>		<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p>	
<p>(1) Agency <b>Pennsylvania Milk Marketing Board</b></p>		<p>3243</p> <p>IRRC Number:</p>	<p>2019 SEP 10 A 10:42</p> <p>RECEIVED IRRC</p>
<p>(2) Agency Number: 47 Identification Number: 20</p>			
<p>(3) PA Code Cite: 7 Pa. Code sec. 143.15</p>			
<p>(4) Short Title: <b>Cooperative disclosure of over-order premium</b></p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):                  Primary Contact: <b>Doug Eberly, 717-836-3115, deberly@pa.gov</b>                  Secondary Contact: <b>Tim Moyer, 717-836-3110, tmoyer@pa.gov</b></p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation  <input type="checkbox"/> Final Regulation  <input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;  <input type="checkbox"/> Certification by the Governor  <input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p><b>The Board mandates an over-order premium be paid to Pennsylvania producers based on milk produced, processed, and sold in Pennsylvania. The Board requires milk dealers to provide a line item on monthly statements to independent producers showing the amount of over-order premium being paid. The Milk Marketing Law defines cooperatives as "producers," so cooperatives are told how much over-order premium they are paid. However, a similar requirement does not currently apply to cooperative statements to their members. This regulation would require cooperatives to provide a line item on monthly statements to members disclosing the amount of over-order premium being paid.</b></p>			
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p><b>Section 301 of the Pennsylvania Milk Marketing Law ("Law") (31 P.S. § 700j-301) gives the Board the authority to "supervise, investigate, and regulate the entire milk industry of the Commonwealth . . . , including the purchase and sale of milk . . . in this Commonwealth, and including the establishment of reasonable trade practices . . . ." Section 307 of the Law (31 P.S. § 700j-307) gives the Board the authority to adopt and enforce regulations necessary or appropriate to carry out the provisions of the Law. Section 608 of the Law (31 P.S. § 700j-608) provides that "[m]ilk dealers buying or receiving milk from producers shall furnish to each producer . . . a written statement" and that "[s]uch statement shall set forth such information as may be required</b></p>			

by the board . . . .” The definition of milk dealer in Section 103 of the Law (31 P.S. § 700j-103) provides, in pertinent part, “[i]f a cooperative distributes . . . milk within this Commonwealth . . . to other milk dealers . . . it shall be deemed to be a milk dealer . . . as to that part of its business, and shall be governed by the provisions of this act applicable thereto.”

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action. No

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

**In April and May 2019, the Board conducted a survey to determine dairy farmers’ knowledge and opinions about Pennsylvania’s milk pricing system including the over-order premium.**

**When asked if they receive an over-order premium, 69 percent of cooperative members stated, “No” or “I’m not sure.” Those individuals indicating, “I’m not sure,” were asked for a reason for that response; the majority of comments stated that they have no information on monthly checks from cooperatives to indicate any over-order premium is received. Respondents were also asked whether they believe the over-order premium is distributed fairly. Less than 5 percent of cooperative members agree that it is. Conversely, the majority of cooperative members believe the Board should revise its system for determining and distributing the over-order premium.**

**A total of 214 comments from survey respondents focused mainly on the lack of transparency by cooperatives in not providing information about the amount of over-order premium included in their monthly payment. Because they lack information, many cooperative members are skeptical and even distrustful of the state and Board, as well as the cooperatives, when discussing their income. They do not understand how the system is benefitting them in any way and believe they are not, in fact, receiving what they are entitled to receive.**

**Milk dealers have been required since 1997 to provide a line item on monthly statements to producers showing the amount of over-order premium being paid; the independent producers are thus able to quantify the direct benefit they receive from the Board’s mandated over-order premium. For payment purposes, cooperatives are defined as the “producer,” so cooperatives are provided information regarding how much over-order premium they are being paid, but cooperatives are not required to provide that information to their members.**

**There are approximately 4,500 cooperative member producers in Pennsylvania. The majority of those 4,500 producers do not have a line item currently on their statements detailing the amount of over-order premium they are being paid. Those producers, approximately 4,200-4,300, who do not have the line item are the intended beneficiaries of this regulation.**

(11) 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 regulations.

**There are no provisions that are more stringent than federal standards because federal milk orders do not mandate an over-order premium. The over-order premium is just that – a premium paid over the federal order price.**

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

**The only other state with a similar milk regulatory scheme is Maine. Pennsylvania producers generally do not compete against Maine producers for markets. In any event, Maine producers receive information regarding the amount of the analogous Maine payment.**

**Also, this is a requirement to provide information to producers, so it should have no effect on competitiveness.**

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations. No

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

**The regulation was prompted by a petition from Representative John Lawrence. The Board held a public hearing on May 1, 2019. Notice of the hearing was published in the Pennsylvania Bulletin on April 6, 2019. The Board also provided notice on March 20, 2019, via Board Bulletin to parties who have requested notice of Board hearings.**

**The following parties testified and/or provided written comments as part of the hearing: Representative John Lawrence, Progressive Agriculture Association, Pennsylvania Farm Bureau, Dairy Farmers of America Northeast Area Council, Pennsylvania Association of Dairy Cooperatives, National Dairy Producers Organization, and Nelson Troutman. The Board also received input outside of the hearing from Dairy Farmers of America Northeast Council.**

**The cooperatives that are members of the Pennsylvania Association of Dairy Cooperatives are not small businesses and Dairy Farmers of America Northeast Council is not a small business. However, the individual member farms of each of the cooperatives, for the most part, are small businesses. There is no overall tracking of receipts by individual farms. However, the average Pennsylvania dairy herd size is approximately 80 cows; at prevailing milk prices and average Pennsylvania production since 2016 at least, a farm would have to milk at least 170 cows to not be**

**a small business. The same analysis applies to other organizations with dairy farmer members – National Dairy Producers Organization, Progressive Agriculture and Pennsylvania Farm Bureau. Nelson Troutman is a dairy farmer – his farm is a small business.**

**Essentially, most of the input the Board solicited and received ultimately can be attributed to small businesses. The vast majority of the intended beneficiaries (individual dairy farmers) of the regulation are small businesses.**

**(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?**

**Approximately 4,500 dairy cooperative member producers will be affected by the regulation by having a line item added to their monthly pay statements showing the amount of mandated Pennsylvania over-order premium they were paid. Only one cooperative of approximately 150 farmers currently provides this information to its members as a line item on the monthly statement.**

**Dairy cooperatives with Pennsylvania members will be affected by the regulation. They will have to add a line item to monthly statements to members showing the amount of mandated Pennsylvania over-order premium being paid.**

**(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.**

**Dairy farmer cooperatives with Pennsylvania members will be required to comply with the regulation.**

**(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.**

**For many years, many cooperative members have expressed concerns about not knowing how much of the mandated Pennsylvania over-order premium they are being paid. Milk dealers have been required since 1997 to provide a line item on monthly statements to producers showing the amount of over-order premium being paid; the independent producers are thus able to quantify the direct benefit they receive from the Board's mandated over-order premium. For payment purposes, cooperatives are defined as the "producer," so cooperatives are provided information regarding how much over-order premium they are being paid, but cooperatives are not required to provide that information to their members.**

**As of December 2018, there were approximately 1,100 independent producers and 4,500 cooperative member producers in Pennsylvania. The independent producers are provided information on their monthly pay statements showing the direct benefit they receive from the Pennsylvania over-order premium. The cooperative member producers do not receive (with the exception of one cooperative) the same information. The social impact and benefit of the regulation is to allow the 4,500 cooperative member producers to see on their monthly pay**

**statements the benefit they receive from the mandated over-order premium.**

**(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.**

**The Board has not identified any adverse effects of the regulation.**

**The benefits outweigh the costs because cooperative member producers will receive information they have requested for as much as 20 years and have not received in an adequate manner from their cooperatives. The survey the Board conducted in April and May 2019 (see #10) confirmed anecdotal evidence that cooperative member producers were dissatisfied with the information they were receiving from their cooperatives.**

**The over-order premium is an amount added to the minimum producer price for milk produced, processed, and sold in Pennsylvania and intended to benefit Pennsylvania dairy farmers. Pennsylvania consumers ultimately pay the over-order premium, as it is a component of minimum retail prices set by the Board. All Pennsylvania dairy farmers – independent and members of cooperatives – should know what benefit they receive from a Board mandated price that is paid by Pennsylvania consumers and intended to benefit Pennsylvania producers.**

**(19) 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. Explain how the dollar estimates were derived.**

**In discussion prior to the May 1 public hearing while the Board was gathering information relative to drafting the proposed regulation, Dairy Farmers of America estimated it would cost between \$98,200 and \$143,200 to program its computer system to provide a line item on producer checks showing the over-order premium. This amounted to between \$58.45 and \$85.24 per Pennsylvania producer. With the simplified cooperative-wide (as opposed to member-specific) over-order premium calculation adopted in this regulation, the Board believes this cost will be less – this is reflected in the cost estimates in #23.**

**At the May 1 hearing, the Pennsylvania Association of Dairy Cooperatives testified against the proposed regulation, in part due to the cost to implement. The Pennsylvania Association of Dairy Cooperatives provided no specifics as to cost.**

**No other cooperative provided information regarding the cost to implement the proposed regulation.**

**(20) Provide a specific estimate of the costs and/or savings to the local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

**There will be no costs or savings to local governments.**

**(21) Provide a specific estimate of the costs and/or savings to the state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.**

**There should be no cost or savings to state government.**

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

**No additional legal, consulting, reporting, recordkeeping or other paperwork will be required for implementation of the proposed regulation.**

**Cooperatives will be required to sum the amounts of over order premium they receive each month and divide that amount by the number of pounds of Pennsylvania member milk sold that month. The cooperatives have all of the necessary information. They will be required to perform simple math and accounting functions on data they already have to arrive at the amount to report on member producer checks.**

**To minimize accounting and other requirements, the Board is prescribing a formula in the regulation for the cooperatives to follow when calculating the amount of over-order premium to be reported to their member producers. Each cooperative will have a cooperative-wide number to report, rather than a member-specific number, vastly decreasing accounting requirements.**

(22a) Are forms required for implementation of the regulation? No

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

**Not applicable**

(23) 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.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
<b>Regulated Community</b>	100,000	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0

<b>State Government</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Costs</b>	<b>100,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Local Government</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>State Government</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Revenue Losses</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**(23a) Provide the past three year expenditure history for programs affected by the regulation. Not applicable**


**(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:**

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

**(a)  
Cooperative member dairy farmers – approximately 4,500**

**(b)  
The cooperatives that will be subject to the line item reporting requirement are not small businesses.**

**(c)  
The majority of the cooperative member dairy farmers are small businesses. They will receive additional information that they have been requesting many years.**

(d)

Dairy Farmers of America currently provides, in a quarterly mailing to members the information this regulation would require. No other dairy farmer cooperative, with the exception of one which currently provides a line item on monthly statements, told the Board if or how it provides information to its Pennsylvania members regarding the amount of Pennsylvania over-order premium being paid. In any event, since none of the cooperatives are small businesses, there is no less costly alternative to consider for small businesses.

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

The purpose of the regulation is to address the particular needs of dairy farmer cooperative members. There is currently no requirement that these farmers be told by their cooperatives how much of the Board-mandated over-order premium they are being paid. This regulation will remedy that situation, as requested for many years by cooperative members.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions were considered. Milk dealers receiving independent producer milk have been required, since 1997, to provide a line item on the independent producers' monthly statements showing the specific amount of over-order premium being paid. Cooperative members have requested the same requirement apply to the monthly statements they receive from their cooperatives almost since the requirement came into effect for independent producers. The Board believes cooperatives should provide comparable information to their members. This regulation, with a prescribed formula to calculate a cooperative-wide over-order premium amount (as opposed to a member-specific amount) is the least burdensome alternative to provide the information for cooperative members.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

**There is no small business burdened by the requirements of this regulation.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how

the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**Not applicable.**

(29) Include a schedule for review of the regulation including:

- |   |                                  |
|---|----------------------------------|
| A. The length of the public comment period:   | <b>30 days after publication</b> |
| B. The date or dates on which any public meetings or hearings will be held:                   | <b>not applicable</b>            |
| C. The expected date of delivery of the final-form regulation:                                | <b>October 24, 2019</b>          |
| D. The expected effective date of the final-form regulation:                                  | <b>May 1, 2020</b>               |
| E. The expected date by which compliance with the final-form regulation will be required:     | <b>May 1, 2020</b>               |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <b>not applicable</b>            |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**If the Board stops receiving complaints from cooperative members regarding the lack of over-order premium information on their monthly statements, the Board will know the regulation is effective.**

**In follow up dairy farmer surveys, the Board will include questions regarding the line item on cooperative member checks to determine if the line item is there and if dairy farmers understand the information they are receiveing.**

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

RECEIVED  
IRRC  
2019 SEP 10 A 10:42

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: <u><i>Cory M. Elliott</i></u> (DEPUTY ATTORNEY GENERAL)</p> <p><u>SEP 03 2019</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Pennsylvania Milk Marketing Board</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>47-20</u></p> <p>DATE OF ADOPTION: <u>June 28, 2019</u></p> <p>BY: <u><i>Timothy M. ...</i></u></p> <p>TITLE <u>Secretary</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u><i>Daryl ...</i></u></p> <p><u>June 28, 2019</u> DATE OF APPROVAL</p> <p>(Chief Counsel, Independent Agency)</p> <p><input type="checkbox"/> Check If applicable. No Attorney General approval or objection within 30 days after submission.</p>
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**PENNSYLVANIA MILK MARKETING BOARD**  
**7 PA. CODE SEC. 143.15**  
**TRANSACTIONS BETWEEN DEALERS AND PRODUCERS**  
**PAYMENT**

The Pennsylvania Milk Marketing Board (“Board”) proposes to amend 7 Pa. Code sec. 143 (transactions between dealers and producers) to read as set forth in Annex A.

*Effective date*

The amendments will be effective 90 days after publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

*Statutory authority*

Section 301 of the Pennsylvania Milk Marketing Law (“Law”) (31 P.S. § 700j-301) gives the Board the authority to “supervise, investigate, and regulate the entire milk industry of the Commonwealth . . . , including the purchase and sale of milk . . . in this Commonwealth, and including the establishment of reasonable trade practices . . . .” Section 307 of the Law (31 P.S. § 700j-307) gives the Board the authority to adopt and enforce regulations necessary or appropriate to carry out the provisions of the Law. Section 608 of the Law (31 P.S. § 700j-608) provides that “[m]ilk dealers buying or receiving milk from producers shall furnish to each producer . . . a written statement” and that “[s]uch statement shall set forth such information as may be required by the board . . . .” The definition of milk dealer in Section 103 of the Law (31 P.S. § 700j-103) provides, in pertinent part, “[i]f a cooperative distributes . . . milk within this Commonwealth . . . to other milk dealers . . . it shall be deemed to be a milk dealer . . . as to that part of its business, and shall be governed by the provisions of this act applicable thereto.”

*Purpose and explanation*

The Board mandates, by way of official general order, an over-order premium be paid to Pennsylvania producers based on milk produced, processed, and sold in Pennsylvania. The Board requires milk dealers to provide a line item on monthly statements to producers that shows the amount of over-order premium being paid. The Milk Marketing Law defines cooperatives as “producers,” so cooperatives are told how much over-order premium they are paid. However, there is no similar requirement that cooperatives provide a line item on monthly statements to their members that shows the amount of over-order premium the members are paid. This regulation would require cooperatives to provide a line item on monthly statements to their members disclosing the amount of over-order premium being paid.

In April and May 2019, the Board conducted a survey to determine dairy farmers’ knowledge and opinions about Pennsylvania’s milk pricing system including the over-order premium.

When asked if they receive an over-order premium, 69 percent of cooperative members stated, “No” or “I’m not sure.” Those individuals indicating, “I’m not sure,” were asked for a

reason for that response; the majority of comments stated that they have no information on monthly checks from cooperatives to indicate any over-order premium is received. Respondents were also asked whether they believe the over-order premium is distributed fairly. Less than 5 percent of cooperative members agree that it is. Conversely, the majority of cooperative members believe the Board should revise its system for determining and distributing the over-order premium.

A total of 214 comments from survey respondents focused mainly on the lack of transparency by cooperatives in not providing information about the amount of over-order premium included in their monthly payment. Because they lack information, many cooperative members are skeptical and even distrustful of the state and Board, as well as the cooperatives, when discussing their income. They do not understand how the system is benefitting them in any way and believe they are not, in fact, receiving what they are entitled to receive.

Milk dealers have been required since 1997 to provide a line item on monthly statements to producers showing the amount of over-order premium being paid; the independent producers are thus able to quantify the direct benefit they receive from the Board's mandated over-order premium. For payment purposes, cooperatives are defined as the "producer," so cooperatives are provided information regarding how much over-order premium they are being paid, but cooperatives are not required to provide that information to their members.

As of December 2018, there were approximately 1,100 independent producers and 4,500 cooperative member producers in Pennsylvania. The independent producers are provided information on their monthly pay statements showing the direct benefit they receive from the Pennsylvania over-order premium.

The majority of the 4,500 cooperative member producers do not have a line item currently on their statements detailing the amount of over-order premium they are being paid. Those producers who do not have the line item are the intended beneficiaries of this regulation.

#### *Description of proposed amendments*

The amendment will require cooperatives to provide a line item on monthly statements to their Pennsylvania producer members that shows the amount of Board-mandated over-order premium being paid.

The regulation prescribes a formula for the cooperatives to use to calculate the over-order premium being paid to their Pennsylvania producer members. This will provide uniformity between and among cooperatives regarding the amount of over-order premium. The Board also currently prescribes a formula for milk dealers to determine the line item on their monthly statements to independent producers.

The cooperative formula is identical to the formula the Board currently uses to provide information to a Pennsylvania cooperative regarding the over-order premium rate received by that cooperative. That cooperative then provides the information to its members. Since this formula is already in use and produces a result that has effectively transmitted the over-order

premium rate information, the Board decided to adopt it for this regulation. This formula calculates the average amount received by cooperative members, not specific individual amounts. Calculating a specific individual amount for each member would be prohibitively costly and administratively impractical.

#### *Public hearing*

The regulation was prompted by a petition from Representative John Lawrence. The Board held a public hearing on May 1, 2019. Notice of the hearing was published in the Pennsylvania Bulletin on April 6, 2019. The Board also provided notice on March 20, 2019, via Board Bulletin to parties who have requested notice of Board hearings.

The following parties testified and/or provided written comments as part of the hearing: Representative John Lawrence, Progressive Agriculture Association, Pennsylvania Farm Bureau, Dairy Farmers of America Northeast Area Council, Pennsylvania Association of Dairy Cooperatives, National Dairy Producers Organization, and Nelson Troutman. The Board also received input outside of the hearing from Dairy Farmers of America Northeast Council.

#### *Fiscal impact*

The proposed amendments would have little fiscal impact on the Commonwealth, its political subdivisions, or the public.

#### *Regulatory review*

On \_\_\_\_\_, 2019, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission ("IRRC") and to the Chairperson of the House and Senate Committees on Agriculture and Rural Affairs, in accordance with section 5(a) of the Regulatory Review Act ("Act") [71 P.S. § 745.5(a)]. A copy of this material is available to the public upon request.

The IRRC may convey comments, recommendations, or objections to the proposed rulemaking within 30 days after the close of the public comment period, as provided by section 5(g) of the Act, specifically stating which of the regulatory review criteria have not been met. Detailed procedures for review of the comments, recommendations, or objections by the Board, the General Assembly, and the Governor, prior to final publication of the rulemaking, are described in the Act.

#### *Public comment*

Interested persons are invited to submit written comments, suggestions, or objections about this proposed rulemaking to Doug Eberly, Chief Counsel, Pennsylvania Milk Marketing Board, 2301 N. Cameron Street, Harrisburg PA 17110, or by email to [ra-pmmb@pa.gov](mailto:ra-pmmb@pa.gov) within 30 days after publication in the *Pennsylvania Bulletin*. Anyone who requires this information in a different format may call (717) 787-4194 or (800) 654-5984 which is the PA relay service for TDD users.



**Robert N. Barley**  
**Chairman**

**ANNEX A  
TITLE 7. AGRICULTURE  
PART VI. MILK MARKETING BOARD  
CHAPTER 143. TRANSACTIONS BETWEEN DEALERS AND PRODUCERS  
PAYMENT**

**143.15. Cooperative communication of over-order premium**

**(a) Cooperatives shall show by line item on their monthly statements to dairy farmers marketing milk through the cooperative the specific amount of the Pennsylvania Milk Marketing Board over-order premium being paid.**

**(b) For the purpose of this section, "the specific amount of the Pennsylvania Milk Marketing Board over-order premium being paid" shall be calculated monthly by each cooperative by dividing the total Pennsylvania over-order premium paid to the cooperative by the total cooperative Pennsylvania member pounds marketed.**

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

**I.D. NUMBER:** 47-20

**SUBJECT:** Transactions between dealers and producers; Payment

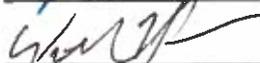
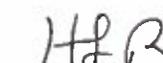
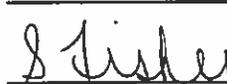
**AGENCY:** Pennsylvania Milk Marketing Board

**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**
  - With Revisions**
  - Without Revisions**

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**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<u>HOUSE COMMITTEE - Agriculture and Rural Affairs</u>
9/10		MAJORITY CHAIR <u>Martin Causer</u>
9/10		MINORITY CHAIR <u>Eddie Day Pashinski</u>
		<u>SENATE COMMITTEE - Agriculture and Rural Affairs</u>
9/10		MAJORITY CHAIR <u>Elder Vogel</u>
9-10		MINORITY CHAIR <u>Judith Schwank</u>
9/10		<u>INDEPENDENT REGULATORY REVIEW COMMISSION</u>
		<u>ATTORNEY GENERAL (for Final Omitted only)</u>
9-10		<u>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</u>