

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;">(All Comments submitted on this regulation will appear on IRRC's website)</p>	<p style="margin: 0;"><i>INDEPENDENT REGULATORY REVIEW COMMISSION</i></p> <p style="margin: 0;">RECEIVED</p> <p style="margin: 0; font-size: small;">Independent Regulatory Review Commission</p> <p style="margin: 0;">August 28, 2024</p>
<p>(1) Agency</p> <p>Pennsylvania Milk Board</p>	<p>IRRC Number: 3414</p>
<p>(2) Agency Number: 47</p> <p style="padding-left: 40px;">Identification Number: 21</p>	
<p>(3) PA Code Cite: 7 Pa. Code Chapter 150</p>	
<p>(4) Short Title: Milk Marketing Fees</p>	
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Doug Eberly, 717-836-3115, deberly@pa.gov</p> <p>Secondary Contact: Betsy Albright, 717-772-2752, elabright@pa.gov</p>	
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><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>7 Pa. Code section 150.12 is proposed to be amended to increase the per hundredweight license fees paid by milk dealers.</p> <p>7 Pa. Code section 150.22 is proposed to be amended to increase one tier of the subdealer quart-equivalent license fee because that tier was inadvertently omitted when subdealer license fees were updated effective with the 2020-2021 license year.</p>	
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>The Milk Marketing Fee Act, 31 P.S. section 700k-1 et. seq., provides that the Board shall charge and collect license fees. Section 700k-3(c) provides the Board authority to establish dealer and subdealer fees by regulation.</p>	
<p>(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.</p> <p>Milk Marketing Fees are mandated by the Pennsylvania Milk Marketing Fee Act. They are not mandated by any federal law or regulation or any court decision.</p>	

(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.

Per the Pennsylvania Milk Marketing Law (31 P.S. section 700j-101 et. seq.) the Board regulates the economics of milk transactions in Pennsylvania. The Board is almost entirely funded through license fees paid by the regulated community, with approximately 98% of the Board's receipts coming from license fees. All funds collected or received by the Board are paid into the State Treasury and placed in the Milk Marketing Fund (31 P.S. section 700j-1101) and used to pay the Board's expenses (31 P.S. section 700j-1102). The Board has not received a general fund appropriation since the 1996-1997 fiscal year.

The Fund's balance at the end of the 2023-2024 license year is projected to be approximately \$4,391,000.00, with receipts less disbursements of \$76,000.00. If the requested fees become effective with the 2025-2026 license year, we still project receipts decreasing almost 5% through the 2028-2029 license year. We further project personnel and operating costs increasing over 7% during the same period. This will lead to an operating deficit of over \$275,000.00 during the 2028-2029 license year, with a projected Milk Marketing Fund balance of \$4,157,200.00 at the end of the license year.

The Board was established by the Legislature with "the power to supervise, investigate and regulate the entire milk industry of this Commonwealth" (31 P.S. section 700j-301) The Board establishes minimum producer, wholesale, and retail milk prices. The Board assures timely and correct payment to milk producers. The Board enforces the Pennsylvania Milk Producers' Security Act, which requires buyers of producer milk to post security to ensure producers are paid for their milk. All Pennsylvanians benefit from the Board's existence, because it helps to provide stability and security to the dairy industry in Pennsylvania, which contributes more than \$11.8 billion annually to Pennsylvania's economy and supports 47,000 jobs.

(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 applicable federal standards.

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

Pennsylvania has the most comprehensive economic milk regulation program in the country. Only two other states (Maine and North Dakota, both of which produce much less milk than Pennsylvania) regulate producer, wholesale, and retail prices. Therefore, other states may have lower fees.

However, this regulation is not expected to negatively affect Pennsylvania's ability to compete with other states. This regulation will impact milk dealers and milk cooperatives. During informal discussions with dealers and cooperatives there has been no indication of opposition to the increase. During the public hearing to consider the fee increase no testimony was provided in opposition.

Milk dealers and milk cooperatives that would be impacted by the fee increase have substantial local, regional, and national interests that would be adversely impacted if the regulation made Pennsylvania less competitive. Their non-opposition demonstrates that this regulation is not expected to be disadvantageous for Pennsylvania.

The milk subdealer quart-equivalent fee increase will affect four subdealers. Their fees will increase \$50.00 per year. There has been no indication that the subdealer fee increase that was effective for the 2020-2021 license year has adversely affected any subdealer's ability to compete with other states. Updating the volume tier that was omitted from the 2020-2021 increase should have no adverse impact.

(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 Board held a public hearing on April 3, 2024, regarding the requested fee increases. Betsy Albright, the Board Secretary, provided a statement supporting the proposed amendments. Representatives of the Pennsylvania Association of Dairy Cooperatives (PADC) and the Pennsylvania Association of Milk Dealers (PAMD) attended the hearing. Cooperatives and dealers each pay approximately 50% of the per hundredweight license fees collected by the Board. Neither opposed the increases.

Secretary Albright also spoke to the members of the Pennsylvania Association of Milk Dealers at two of their member meetings. No individual dealer indicated opposition to the fee increases.

(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?

The regulation will impact the 200-205 licensed milk dealers and four of the licensed subdealers.

NAICS codes applicable to the businesses affected are 112210 (Dairy Cattle and Milk Production), 311351 (Chocolate and Confectionery Manufacturing from Cacao Beans), 311511 (Fluid Milk Manufacturing), 311512 (Creamery Butter Manufacturing), 311513 (Cheese Manufacturing), 311514 (Dry, Condensed, and Evaporated Dairy Product Manufacturing), and 311520 (Ice Cream and Dessert Manufacturing).

The four subdealers are small businesses.

Of the milk dealers, the vast majority are small businesses. The largest dairy cooperatives (Dairy Farmers of America, Land O' Lakes, Lanco-Pennland, Maryland & Virginia Milk Producers Cooperative) are not small businesses. The largest dairy manufacturers and distributors (Hershey, Saputo, Nestle, Chobani) are not small businesses overall; however, individual plant locations may not exceed the number of employees threshold to not be a small business.

All of the affected licensees currently pay the same per hundredweight license fee and all will pay the same per hundredweight license fee if the regulation is adopted.

(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.

As noted in item 15 above, all licensed milk dealers and four licensed milk subdealers will be required to comply with the regulation.

Given normal industry turnover, in the neighborhood of 200-205 milk dealers are licensed at any given time. Approximately 190-195 of the milk dealers are small businesses.

(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.

The impact of the regulation will be financial.

Subdealer fees will increase for the four affected businesses \$50.00 each annually.

The universe of milk dealers will pay a combined total of \$299,925.00 more in license year 2025-26 than under the current fee structure. Because we project declining volumes of price-controlled milk beyond 2025-26, the combined total of additional milk dealer fees will decrease to \$201,453.00 by license year 2028-29.

The benefit is the continued functioning of the Milk Board. The Board is "the instrumentality of the Commonwealth for the purpose of administering the provisions of [the Milk Marketing Law] and to execute the legislative intent [of the Milk Marketing Law] . . ." and is "vested with power to supervise, investigate and regulate the entire milk industry" of Pennsylvania. The Board is funded through license fees. Without adequate license fee levels, the Board cannot function. Item 10 above provides further detail regarding benefits.

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

As stated in more detail in item 10, the Board's activities help provide stability and security for the multi-billion dollar Pennsylvania dairy industry. This fee increase will help assure the agency can continue to carry out the functions delegated to it by the legislature.

(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.

The direct cost to the regulated community to comply with the regulation will be and additional \$300,125.00 (\$299,925 for dealers and \$200 for subdealers) in license fees in the 2025-26 license year. As noted above, this will decrease to \$201,653.00 in additional license fees by the 2029-2029 license year.

All of the affected dealers and subdealers already pay license fees, so there should be no additional cost or saving to the regulated community to comply with the 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.

No costs or savings to local governments are anticipated.

(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.

No costs or savings to state government are anticipated because the agency is already assessing and collecting these fees.

(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, accounting, or consulting procedures will be required. No additional reporting, recordkeeping, or other paperwork will be required.

(22a) Are forms required for implementation of the regulation?

The Board licenses approximately 200-205 milk dealers at any given time. 16 of those licensees file monthly paper reports, the remainder submit monthly electronic reports. These reports will not change. The reports currently do not note the per hundredweight license fees, or indeed any license fees, and will not note the new license fees. The Board's Milk Accounting and Regulatory System calculates annual per hundredweight license fees based on the submitted information.

(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.**

Each year with license renewals, the Board provides a "dealer fee calculation sheet" so that licensees may see how we calculated their license fees. This calculation sheet notes the per hundredweight fee rates. This sheet is attached.

New milk dealer licensees pay a monthly license fee until they have been licensed for one full calendar year (at which time they begin to pay an annual license fee based on a calendar year's activity). The

"monthly dealer license fee calculation sheet" notes the per hundredweight fee rates. This sheet is attached.

Finally, the subdealer fee tiers are part of the online renewal application. A copy of this page is attached.

(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.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
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	300,125	266,296	233,482	201,653	Not calculated
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs		300,125	266,296	233,482	201,653	Not calculated
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

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Milk Board Personnel and Operating	\$2,570,000	\$2,407,000	\$2,450,000	\$2,840,000

(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) We estimate that 190-195 small business will be subject to the regulation at any given time.
- (b) The affected licensees currently pay these license fees. The fees are being increased, but no additional reporting, recordkeeping, or other administrative costs will be necessary to comply.
- (c) Impacted small businesses will pay a higher license fee.
- (d) There are no less intrusive or less costly alternative methods to achieve the purpose of the proposed regulation. The Board is funded by license fees. To remain functional the Board must occasionally increase license fees.

(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 fee increases have been kept as limited as possible while still providing better financial viability for the agency.

(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.

The Milk Marketing Fee Act requires the Board to assess license fees to fund its operations. Those fee increases have been kept as limited as possible while still providing better financial viability for the agency. The least burdensome acceptable alternative has been selected.

(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.

(a), (b), and (c). The compliance and reporting requirements relevant to license fees are part of the required Milk Dealer Monthly Report, which the Board uses to ensure producers are paid timely and accurately. The Milk Dealer Monthly Report also contains information necessary to carry out the Board's minimum price setting responsibilities. The information needed to calculate license fees is already collected for other reasons.

(d). There are no relevant performance standards.

(e). The per hundredweight license fees are based on volume. The smaller the business, the smaller its fee. Therefore no exemptions are included in the proposed regulations.

(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.

The Board used its own data accumulated through required and audited licensee reports to project future receipts. The Board used historical and new union contracts to forecast future costs. The spreadsheet is attached.

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

- | | |
|---|------------------|
| A. The length of the public comment period: | 30 days |
| B. The date or dates on which any public meetings or hearings will be held: | April 3, 2024 |
| C. The expected date of delivery of the final-form regulation: | November 8, 2024 |
| D. The expected effective date of the final-form regulation: | July 1, 2025 |
| E. The expected date by which compliance with the final-form regulation will be required: | July 1, 2025 |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | July 1, 2025 |

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

The Board will continue to closely monitor its finances, including the impact of these fee increases, and the Board's careful stewardship of its finances will continue.

Milk Board

Budget	FYE 23-24	FYE 24-25	FYE 25-26	FYE 26-27	FYE 27-28	FYE 28-29
Beginning Cash Balance	4,315,000	4,391,000	4,472,183	4,587,841	4,575,568	4,432,555
Receipts						
Dealer - Cwt Fees	2,072,547	1,865,314	2,165,239	2,131,410	2,098,596	2,066,767
Hauler - Cwt Fees	588,260	557,137	557,137	557,137	557,137	557,137
Subdealer - Quarts Fees	29,097	32,000	32,000	32,000	32,000	32,000
Dealer - Fixed Fees	22,500	22,500	22,500	22,500	22,500	22,500
Hauler - Fixed Fees	5,355	5,330	5,180	5,180	5,005	5,005
Subdealer - Fixed Fees	7,900	7,900	7,900	7,900	7,900	7,900
Weighter/Sampler - Fixed Fees	30,647	32,525	31,250	30,950	30,625	30,300
Tester - Fixed Fees	828	990	800	800	800	800
Examination Fees	3,866	3,810	3,600	3,600	3,600	3,600
Fines/Other Fees	5,000	5,000	5,000	5,000	5,000	5,000
Interest	150,000	87,820	67,083	68,818	45,756	44,326
Misc	-	-	-	-	-	-
TOTAL Receipts	2,916,000	2,620,525	2,897,688	2,865,294	2,808,918	2,775,334
Salary & Benefits	2,404,000	2,115,823	2,347,923	2,432,606	2,495,847	2,583,202
Total Operating	436,000	423,520	434,108	444,960	456,084	467,486
Total Personnel & Operating	2,840,000	2,539,343	2,782,030	2,877,567	2,951,931	3,050,688
Receipts less Disbursements	76,000	81,182.93	115,657.75	(12,272.58)	(143,013.03)	(275,354.16)
Ending Cash Balance	4,391,000	4,472,182.93	4,587,840.67	4,575,568.09	4,432,555.07	4,157,200.90
Receipts Detail	FYE 23-24	FYE 24-25	FYE 25-26	FYE 26-27	FYE 27-28	FYE 28-29
Controlled LBS	1,597,932,004	1,549,994,044	1,503,494,223	1,458,389,396	1,414,637,714	1,372,198,583
Controlled Rate/Cwt	0.060	0.060	0.075	0.075	0.075	0.075
Uncontrolled LBS	14,614,336,568	14,614,336,568	14,614,336,568	14,614,336,568	14,614,336,568	14,614,336,568
Uncontrolled Rate/Cwt	0.006	0.006	0.007	0.007	0.007	0.007
Hauler LBS	11,142,730,000	11,142,730,000	11,142,730,000	11,142,730,000	11,142,730,000	11,142,730,000
Hauler Rate/Cwt	0.005	0.005	0.005	0.005	0.005	0.005
Sub-dealer Qt Fee % Increase						
Fixed Fees per Dealer	100.00	225				
Fixed Fees per Sub-dealer	50.00	158				
Fixed Fees per Hauler	35.00	158				
Fixed Fees per Weigher Sampler	25.00	1,301				
Fixed Fees per Tester	30.00	33				
Examination Fees per Exam	30.00	127				

2021-22
199
162
190
1639
65
200

PENNSYLVANIA MILK BOARD

License Fee Calculation

2/8/2024 9:59:29 AM

LICENSING YEAR: 2024

Year	Total	Deductions	Basis for Calculation	Controlled Milk	Non Controlled Milk
2023	0	0	0	0	0
JAN	0	0	0	0	0
FEB	0	0	0	0	0
MAR	0	0	0	0	0
APR	0	0	0	0	0
MAY	0	0	0	0	0
JUN	0	0	0	0	0
JUL	0	0	0	0	0
AUG	0	0	0	0	0
SEP	0	0	0	0	0
OCT	0	0	0	0	0
NOV	0	0	0	0	0
DEC	0	0	0	0	0
Totals	0	0	0	0	0

Fixed Fee:		\$100.00
Controlled Fee:	0 X \$0.0600	\$0.00
Non Controlled Fee:	0 X \$0.0064	\$0.00
Total Fee for Location:		\$100.00

Pennsylvania Milk Board Monthly License Fee Calculation for newly licensed dealers

Dealer License #: Dealer Name: Month/Year: for which fee is being calculated

NEWLY LICENSED DEALERS MUST SUBMIT THEIR LICENSE FEES MONTHLY UNTIL THEY HAVE BEEN LICENSED FOR A FULL CALENDAR YEAR (JAN THRU DEC) AND THEN THE FOLLOWING 6 MONTHS (JAN THRU JUN) TO COMPLETE THE LICENSE YEAR. FOR EXAMPLE, A DEALER LICENSED IN AUGUST OF 2016 WILL COMPLETE THIS REPORT AND SUBMIT LICENSE FEES MONTHLY UP TO AND INCLUDING JUNE OF 2018. AFTER THAT, THE BOARD WILL GENERATE THE LICENSE FEE CALCULATION AUTOMATICALLY BASED ON THE PRIOR CALENDAR YEAR'S MILK DEALER'S MONTHLY REPORTS (PMMB-62).

IF THERE IS NO ACTIVITY TO BE REPORTED FOR ANY GIVEN MONTH PLEASE THE BOX AND RETURN THIS FORM.

PMMB-62

LINE NO.	SOURCE	POUNDS	RATE per POUND	FEE
1.	Part 1 Total Producer milk (do not include Own Farm milk)	<input type="text"/>		
2.	Part 2 Total receipts from Non-PA dealers (include Bulk Cream and Bulk Condensed purchases)	<input type="text"/>		
Note: Line No. 3 is applicable only if Bulk Cream and/or Bulk Condensed Milk/Skim were purchased from Non-PA dealer(s).				
3.	Part 2 Net Effect of Bulk purchases from Non-PA dealers	<input type="text"/>		
* If NOT applicable, then skip down to Line No. 4.				
* If applicable, then complete supplementary 'Bulk' worksheet(s) and enter result(s) on Line No. 3. Worksheets can be printed from our website (www.mmb.pa.gov).				
4.	Part 2 Receipts from Juggers (License # 8888800)	<input type="text"/>		
5.	Total Receipts (Line 1 + Line 2 + Line 3 + Line 4)	<input type="text"/>		
6 (a).	If a DEALER, Diversions from Non-PA producers to Non-PA dealers	<input type="text"/>		
6 (b).	If a COOPERATIVE, Diversions to PA dealers	<input type="text"/>		
7.	Basis for Calculation (Line 5 - Line 6(a) - Line 6(b))	<input type="text"/>		
8.	Part 3 Controlled PA Milk Sales (Areas 1-0, 2-0, 3-0, 4-0, 5-0 & 6-0; REGULATED)	<input type="text"/>	X \$ 0.000750	<input type="text"/>
9.	Part 3 Non-Controlled milk sales (Line 7 - Line 8)	<input type="text"/>	X \$ 0.000071	<input type="text"/>
if result is negative, then round up to 0.				
10.	Total License Fee (Line 8 + Line 9)	<input type="text"/>		<input type="text"/>

Make Check payable to the Commonwealth of Pennsylvania, attach to this form and send to:

Pennsylvania Milk Board
2301 North Cameron Street Room 108
Harrisburg, PA 17110

NEWLY LICENSED DEALERS MUST SUBMIT THIS FORM ALONG WITH A CHECK FOR THE LICENSE FEE AND THE MILK DEALER'S MONTHLY REPORT (PMMB-62) ON OR BEFORE THE 25TH OF EACH MONTH FOR THE PREVIOUS MONTH'S ACTIVITY. IF, FOR ANY REASON, YOU ARE UNABLE TO SUBMIT THESE FORMS ON TIME, PLEASE CONTACT JON DADIGAN AT 717-705-4687 PRIOR TO THE DUE DATE.

Completed by: Date:

~NOTE: DO NOT SEND IN CHECKS FOR LESS THAN \$1.00

PENNSYLVANIA MILK BOARD

Sub-Dealer Renewal License Application

Financial Schedule

License Fees

- A. Renewal licensees pay an **Annual Fixed Fee** of \$50.00 (due with application).
- B. **Quarts Equivalent Fee:** In addition to the Annual Fixed Fee, a subdealer shall pay, on an annual basis, a fee on milk and products on which the Board sets prices. The quart-equivalent fee shall be assessed in accordance with the following schedule.

Average Quarts Sold Per Month	Annual Fee
0-29999	\$62.50
30000-59999	\$125.00
60000-119999	\$187.50
120000-149999	\$200.00 250.00
150000-199999	\$312.50
200000-299999	\$375.00
300000-399999	\$500.00
400000-599999	\$625.00
600000-799999	\$1,000.00
800000-999999	\$1,500.00
1000000-9999999999	\$1,750.00

C. Calculate Your License Fee

- 1. Annual Fixed Fee \$50.00
- 2. Annual Quart-Equivalent Fee \$

based on actual quarts sold per month of

Total License Fee Due With Application

Computation of Subdealer Bond

As a new applicant you **MUST complete this section** if a bond is required.

A. Enter dollar values in the following table by estimating the **anticipated** purchases of "price-controlled packaged products" for each month, starting with the month you **anticipate** you will be starting your business.

Price-controlled packaged products are Class I and Class II milk products that are listed on the PMMB monthly price sheets and sold in Pennsylvania.

Bond not required

Bond Amount Required (from Bond calculation report):

If a bond is required a copy must be attached in the attachment section of this application. Applications will not be processed without a copy attached. The original bond must be mailed in.

You will also be required to upload a copy at the end of this application.

FISCAL NOTE FOR DOCUMENTS FILED WITH THE LEGISLATIVE REFERENCE BUREAU

August 1, 2024

Agency: Pennsylvania Milk Board

Agency Identification Number: 47-21

Subject of Regulation: Milk Marketing Fees

Pursuant to Section 612 of the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929, I am submitting the following fiscal note for publication in the *Pennsylvania Bulletin* to accompany this notice of regulatory action or administrative procedure.

FISCAL NOTE AS REQUIRED BY SECTION 612
Administrative Code of 1929
(See also 4 Pennsylvania Code § 7.231, *et seq.* [9 Pennsylvania Bulletin])

This action will not result in a loss of revenue or an increase in program costs to the Commonwealth or its political subdivisions.

Milk dealers are projected to pay a combined total of \$299,925.00 more in license year 2025-26 than under the current fee structure. Because the Milk Board is projecting declining volumes of price-controlled milk beyond 2025-26, the combined total of additional fees will decrease to \$201,453.00 by license year 2028-29.

The Secretary of the Budget recommends adoption of this regulatory action or administrative procedure.

Eric A. Dice for

Secretary of the Budget

CDL-1

RECEIVED

Independent Regulatory
Review Commission

August 28, 2024

**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

BY: **Amy M. Elliott**
(DEPUTY ATTORNEY GENERAL)

Digitally signed by Amy M. Elliott
DN: cn=Amy M. Elliott, o=Pennsylvania
Office of Attorney General, ou=Chief
Deputy Attorney General,
email=ae Elliott@attorneygeneral.gov, c=US
Date: 2024.07.29 15:52:38 -0400

7/29/2024
DATE OF APPROVAL

Check if applicable
Copy not approved. Objections
attached.

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

Pennsylvania Milk Board
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 47-21

DATE OF ADOPTION: July 5, 2024

BY: Elizabeth Albright
Elizabeth Albright
TITLE SECRETARY

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

BY: Douglas L. Eberly
Douglas L. Eberly, Chief Counsel

7/5/24
DATE OF APPROVAL

(Chief Counsel, Independent Agency)
(Strike inapplicable title)
Check if applicable. No Attorney General
approval or objection within 30 days after
submission.

Preamble

Pennsylvania Milk Board

[7 Pa. Code Ch. 150]

Milk Marketing Fees

The Pennsylvania Milk Board (Board) proposes to amend Chapter 150 (relating to milk marketing fees) by increasing the license fees for milk dealers and one group of subdealers.

A. Effective Date

This proposed rulemaking will be effective upon final form publication in the *Pennsylvania Bulletin*. There is no sunset provision.

B. Statutory Authority

The Milk Marketing Fee Act (31 P.S. sec. 700k-1 et. Seq.) gives the Board the authority to impose and collect license fees. Sections 700k-3 addresses milk dealer and milk subdealer fees generally. Section 700k-4 address milk dealer license fees for milk dealers not engaged in the milk business at the commencement of the license period.

C. Purpose and Explanation

The Board is self-funded, primarily by license fees. The Board has not received any general fund appropriation since the 1996-97 fiscal year. License fees and other funds received by the Board are paid into the State Treasury and placed in the Milk Marketing Fund (Fund). Despite the Board's careful stewardship, expenses have increased and are projected to continue to increase, while income is not. The Fund is being eroded by the resulting deficits. Without this fee increase, the Board's financial viability will become uncertain.

D. Description of the Amendments

The Board licenses approximately 200-205 milk dealers at any given time, with normal industry turnover. This amendment increases the per hundredweight fee milk dealers pay (the fixed license fee remains unchanged). The fee for price-controlled milk will increase from \$0.060 to \$0.075 per hundredweight. The fee for non-price-controlled milk will increase from \$0.0064 to \$0.0071 per hundredweight.

The Board licenses approximately 140-150 milk subdealers at any given time, with normal industry turnover. Subdealers pay a fixed license fee, which remains unchanged. Subdealers also pay a volume-based fee (designated as the "quart-equivalent fee"). When the Board last amended the subdealer quart-equivalent fee for license year 2020-21, one volume tier was inadvertently omitted. The amendment will impact four subdealers, increasing their quart-equivalent fee by \$50.00 annually.

E. Fiscal and Administrative Impact

Milk dealers and four milk subdealers are the persons and parties affected by this proposed rulemaking.

The fee increase will result in additional revenue to the Board. The milk dealers are projected to pay a combined total of \$299,925.00 more in license year 2025-26, \$266,096.00 more in license year 2026-27, \$233,282.00 more in license year 2027-28, and \$201,453.00 in license year 2028-29. The decreases in increased license fees are due to projected declining volumes of price-controlled milk.

The milk subdealers will pay \$50.00 more, for a combined total of \$200.00 in license year 2025-26 and subsequent license years.

These fees are not new fees – they are increases in existing fees. Therefore the administrative impact is not expected to be significant.

F. Public Hearing

A public hearing was held on April 3, 2024. Notice of the hearing was published in the *Pennsylvania Bulletin*, posted on the Board's website, and sent to those who have requested emailed notification of Board hearings.

The hearing was attended by the Board and Board Staff, an attorney representing the Pennsylvania Association of Dairy Cooperatives, and the Executive Director of the Pennsylvania Association of Milk Dealers.

The Board Secretary testified regarding the need for the fee increase. There was no other testimony.

G. Regulatory Review

On _____, 2024, 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 Chairs of the House and Senate Committees on Agriculture and Rural Affairs, in accordance with section 5(a) of the Regulatory Review Act (71 P.S. sec. 745.5(a)). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, the IRRC may convey any comments, recommendations, or objections to the proposed rulemaking within 30 days after the close of the public comment period. The comments, recommendations, or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final-form publication of this proposed rulemaking, by the Board, the General Assembly, and the Governor of comments, recommendations, or objections raised.

H. Public Comments and Contact Person

Interested persons are invited to submit written comments, suggestions, support, or objections about this proposed rulemaking to the Board, to the attention of Doug Eberly, Chief Counsel, Pennsylvania Milk Board, 2301 N. Cameron Street, Harrisburg, PA 17110, or by email to 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 (the PA relay service for TDD users).

Robert N. Barley
Chairman

**Pennsylvania Milk Board
Proposed Regulations
7 Pa. Code Ch. 150 – Milk Marketing Fees
Identification No. 47-21**

Instructions for submitting public comments to the Agency

Interested persons are invited to submit written comments, suggestions, support, or objections about this proposed rulemaking to the Board, to the attention of Doug Eberly, Chief Counsel, Pennsylvania Milk Board, 2301 N. Cameron Street, Harrisburg, PA 17110, or by email to 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 (the PA relay service for TDD users).

PENNSYLVANIA MILK BOARD
PROPOSED AMENDMENTS TO 7 PA. CODE CHAPTER 150

LICENSE FEES OF MILK DEALERS

§ 150.12. Hundredweight fees.

(a) In addition to the fixed fee imposed under § 150.11 (relating to fixed fees), a milk dealer that was licensed for the entire calendar year preceding license renewal shall pay an annual hundredweight fee as set forth in paragraphs (1) and (2).

(1) For milk for which the Board has fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is **\$.075** ~~\$.060~~ per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is **\$.0071** ~~\$.0064~~ per hundredweight.

(b) In addition to the fixed fee imposed under § 150.11, a milk dealer that was not licensed for the entire calendar year preceding license application or renewal shall pay a monthly hundredweight fee as set forth in paragraphs (1) and (2). Monthly payments shall continue until the milk dealer has been licensed for an entire calendar year and for each month thereafter until the next license year begins. Annual payments shall then commence under subsection (a).

(1) For milk for which the Board has fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the preceding month, the fee is **\$.075** ~~\$.060~~ per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the preceding month, the fee is **\$.0071** ~~\$.0064~~ per hundredweight.

LICENSE FEES OF MILK SUBDEALERS

§ 150.22. Quart-equivalent fee.

(a) In addition to the fixed fee imposed under § 150.21(b) (relating to fixed fees), an applicant for annual renewal of a subdealer's license shall pay an annual quart-equivalent fee calculated by dividing the total quarts of milk sold during the previous calendar year by the number of months in which the subdealer engaged in business. The Board will assess the fee in accordance with the following schedule:

Ave. Qts. Sold Per Month Annual Fee

120,000—149,999	250	200
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RECEIVED

From: [Kerry Golden](#)
To: [Eberly, Douglas](#)
Subject: RE: [EXTERNAL]: Milk Board proposed regulation
Date: Wednesday, August 28, 2024 10:15:02 AM

Independent Regulatory
Review Commission
August 28, 2024

Hello Doug,

Received on behalf of Chairman Dan Moul.

Cheers,
Kerry

Ms. Kerry Golden | *Executive Director (R)*
Agriculture and Rural Affairs Committee
Manager | Department of Policy and Legislative Services
Pennsylvania House of Representatives
331 Ryan Office Building
(717) 787-3396 | kgolden@pahousegop.com

From: Eberly, Douglas <deberly@pa.gov>
Sent: Wednesday, August 28, 2024 10:09 AM
To: Kerry Golden <Kgolden@pahousegop.com>
Subject: [EXTERNAL]: Milk Board proposed regulation

Kerry,

As discussed, the proposed regulation.

If you'd be so kind as to send me a reply acknowledging receipt, I'd appreciate it.

Thanks.

Doug

Doug Eberly | Chief Counsel
Pennsylvania Milk Board
2301 North Cameron Street | Harrisburg PA 17110
Phone: 717.836.3115 | Fax: 717.705.2712
deberly@pa.gov

-

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RECEIVED

From: [Zeiders, Destiny](#)
To: [Eberly, Douglas](#)
Subject: Re: Milk Board proposed regulation
Date: Wednesday, August 28, 2024 10:17:17 AM

Independent Regulatory
Review Commission
August 28, 2024

Received
Thanks

Get [Outlook for iOS](#)

From: Eberly, Douglas <deberly@pa.gov>
Sent: Wednesday, August 28, 2024 10:09:04 AM
To: Zeiders, Destiny <DZeiders@pahouse.net>
Subject: Milk Board proposed regulation

Destiny,

As discussed, the proposed regulation.

If you'd be so kind as to send me a reply acknowledging receipt, I'd appreciate it.

Thanks.

Doug

Doug Eberly | Chief Counsel
Pennsylvania Milk Board
2301 North Cameron Street | Harrisburg PA 17110
Phone: 717.836.3115 | Fax: 717.705.2712
deberly@pa.gov

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RECEIVED

From: [Guthrie, Lily](#)
To: [Eberly, Douglas](#)
Subject: RE: Milk Board proposed regulation
Date: Wednesday, August 28, 2024 11:48:17 AM

Independent Regulatory
Review Commission

August 28, 2024

Received. Thank you!

Gratefully,

Lily Guthrie

Executive Director
Agriculture & Rural Affairs Committee
Senator Elder Vogel, Jr.
47th Senatorial District
717-787-3076

From: Eberly, Douglas <deberly@pa.gov>
Sent: Wednesday, August 28, 2024 10:06 AM
To: Guthrie, Lily <lguthrie@pasen.gov>
Subject: Milk Board proposed regulation

ⓘ CAUTION : External Email ⓘ

Lily,

Sending the proposed regulation today hoping you'll see it. The House executive directors are only available til noon or so today for the next week.

In any event, if you'd be so kind as to reply today acknowledging receipt, I'd appreciate it.

Thanks.

Doug

Doug Eberly | Chief Counsel
Pennsylvania Milk Board
2301 North Cameron Street | Harrisburg PA 17110
Phone: 717.836.3115 | Fax: 717.705.2712
deberly@pa.gov

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RECEIVED

From: [Evans, William](#)
To: [Eberly, Douglas](#)
Subject: Re: Milk Board proposed regulation
Date: Wednesday, August 28, 2024 10:21:03 AM

Independent Regulatory
Review Commission
August 28, 2024

Received today. Thank you

Bill Evans

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From: Eberly, Douglas <deberly@pa.gov>
Sent: Wednesday, August 28, 2024 10:03:48 AM
To: Evans, William <wgevans@pasenate.com>
Subject: Milk Board proposed regulation

EXTERNAL EMAIL

Bill,

As discussed, the proposed regulation.

If you'd be so kind as to send me a reply acknowledging receipt, I'd appreciate it.

Thanks.

Doug

Doug Eberly | Chief Counsel
Pennsylvania Milk Board
2301 North Cameron Street | Harrisburg PA 17110
Phone: 717.836.3115 | Fax: 717.705.2712
deberly@pa.gov

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RECEIVED

Independent Regulatory
Review Commission

August 28, 2024

From: [Bulletin](#)
To: [Eberly, Douglas](#)
Subject: [External] RE: Pennsylvania Milk Board Proposed Regulation 47-21
Date: Wednesday, August 28, 2024 1:04:58 PM

ATTENTION: *This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).*

Good afternoon Doug,

We have received Proposed Regulation 47-21. Someone from our office will be in touch to schedule it for publication in the *Pennsylvania Bulletin*.

Thank you!

Ernest L. Engvall | Legal Assistant
eengvall@palrb.us | 717.783.1530
Legislative Reference Bureau
Code and Bulletin Office

From: Eberly, Douglas <deberly@pa.gov>
Sent: Wednesday, August 28, 2024 12:54 PM
To: Bulletin <bulletin@palrb.us>
Subject: Pennsylvania Milk Board Proposed Regulation 47-21

You don't often get email from deberly@pa.gov. [Learn why this is important](#)

Good afternoon,

Attached is Pennsylvania Milk Board Proposed Regulation 47-21. Word versions of the Preamble and Annex A are also attached.

Also attached are the receipt acknowledgements from each of the Ag Committee Executive Directors.

If you'd be so kind as to acknowledge receipt, I will then forward to IRRC and all will be delivered today.

Thanks.

Doug

RECEIVED

Independent Regulatory
Review Commission

August 28, 2024

Doug Eberly | Chief Counsel
Pennsylvania Milk Board
2301 North Cameron Street | Harrisburg PA 17110
Phone: 717.836.3115 | Fax: 717.705.2712
deberly@pa.gov

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

I.D. NUMBER: 47-21

SUBJECT: Transactions between dealers and producers: Payment

AGENCY: Pennsylvania Milk Board

RECEIVED

Independent Regulatory
Review Commission

August 28, 2024

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**

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<u>HOUSE COMMITTEE -</u> _____
_____	_____	MAJORITY CHAIR _____
_____	_____	MINORITY CHAIR _____
		<u>SENATE COMMITTEE -</u> _____
_____	_____	MAJORITY CHAIR _____
_____	_____	MINORITY CHAIR _____
_____	_____	<u>INDEPENDENT REGULATORY REVIEW COMMISSION</u>
_____	_____	<u>ATTORNEY GENERAL</u> (for Final Omitted only)
_____	_____	<u>LEGISLATIVE REFERENCE BUREAU</u> (for Proposed only)