

**CHAPTER 51-02-03
FARM TO PLANT HAULING RATES**

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51-02-03-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Contract services cost" means the cost paid to a contract hauler and approved by the board.
2. "Dairy farmer route" means that group of dairy farmers whose milk is hauled by a hauler to a processing plant on a regular basis.
3. "Depreciation on trucks" means original cost of the tank and truck less salvage value, divided by the economic life of the truck expressed in total miles [kilometers].
4. "Employee benefits cost" means fringe benefits such as hospitalization insurance, life insurance, pension contributions, unemployment insurance, industrial accident insurance, sick pay, vacation pay, etc.
5. "Gas, diesel fuel, oil, and lubricants cost" means those amounts actually recorded and used in bulk tank trucks on a specific producer route.
6. "General and administrative cost" means:
 - a. Accounting, record keeping, and clerical costs.
 - b. Administrative and supervision costs.
 - c. Miscellaneous depreciation, repair, and rental costs (shop repair equipment, fuel tanks, pumps, etc.).
 - d. Other miscellaneous items (as cost justified).
7. "Hauler" means:
 - a. A processor who provides trucking equipment necessary to haul dairy farmer's milk from farm to plant.
 - b. An independent businessman who owns one's own trucking equipment and who contracts directly with dairy farmers for hauling their milk from farm to plant as a contract hauler.
 - c. A group of dairy farmers who own their own trucking equipment and hire drivers to haul their own milk from farm to plant.
8. "Hauling rate" means the rate charged dairy farmers for hauling milk from farm to plant.
9. "Insurance, license, and tax cost" means the average cost of these items, recorded by a specific tank truck, over the most current twelve-month period.

10. "Interest" means the cost of borrowed capital.
11. "Labor cost" means salaries, wages, and payroll taxes for drivers and others employed by a hauler.
12. "Reasonable return on necessary investment" means a return on invested capital as a rate that shall be determined as equitable by the board.
13. "Rental or lease cost" means the leasing of vehicles and equipment (trucks, tanks, pumps, washing equipment, etc.) rather than owning them.
14. "Repairs and maintenance cost" means the average cost of repairs and maintenance of bulk milk tank trucks and other necessary equipment of the most recent twelve-month period.
15. "Tire cost" means the average cost of tires used on bulk milk tank trucks over the most current twelve-month period.

General Authority: NDCC 4.1-26, 4.1-26-06

Law Implemented: NDCC 4.1-26-06

51-02-03-02. Hauling cost records.

All haulers shall maintain records of hauling costs by specific truck and specific dairy farmer route sufficient to provide costs on the following cost items:

1. Labor.
2. Employee benefits.
3. Rental or lease (if any).
4. Repairs and maintenance.
5. Gas, oil, and other lubricants.
6. Tires.
7. Insurance, licenses, and taxes.
8. Contract services.
9. General and administrative.
10. Depreciation on truck and tank.
11. Interest.
12. Reasonable return on necessary investment.

General Authority: NDCC 4.1-26, 4.1-26-06

Law Implemented: NDCC 4.1-26-06

51-02-03-03. Partial use of truck or tank.

In the event that a truck or tank is used in hauling other products, items, or bulk milk from plant to plant in addition to farm to plant hauling, costs shall be prorated by percentages based upon mileage, hundredweights or product hauled, or both.

General Authority: NDCC 4.1-26, 4.1-26-06

Law Implemented: NDCC 4.1-26-06

51-02-03-04. Private agreements.

Hauling rates to be charged to dairy farmers and which farmers shall be included in a specific dairy farmer route shall be a matter of private negotiation and agreement between the parties involved, except that in the event an agreement cannot be reached, any dairy farmer or hauler may petition the board to determine facts and mediate or decide any such controversy by use of the procedure provided in this chapter.

General Authority: NDCC 4.1-26, 4.1-26-06

Law Implemented: NDCC 4.1-26-06

51-02-03-05. Petition for factfinding.

Any dairy farmer or hauler who deems oneself aggrieved by a hauling rate or which dairy farmers are to be included in a specific dairy farmer route may petition the executive secretary to conduct an investigation of the matter which shall include cost justification, route composition, and all other pertinent facts. A petition by a hauler for a hauling rate increase shall specify the dairy farmer route involved, the present hauling rate, the desired increase in the hauling rate, and the effective date of the new hauling rate. Upon completion of the investigation the executive secretary shall make and submit the executive secretary's findings and recommendations to the parties involved and encourage further negotiations toward a private agreement between the parties.

General Authority: NDCC 4.1-26, 4.1-26-06

Law Implemented: NDCC 4.1-26-06

51-02-03-06. Public hearing.

In the event the parties involved are unable to agree within fifteen days after the executive secretary submits the executive secretary's findings, the milk stabilization board shall notice a public hearing for the parties involved to appear and present evidence and the board shall decide the matter and issue appropriate orders.

General Authority: NDCC 4.1-26, 4.1-26-06

Law Implemented: NDCC 4.1-26-06

51-02-03-07. Interpretation.

If any portion of this chapter is held invalid or unconstitutional, such holding shall not affect the validity of the chapter as a whole, or of any part thereof which can be given effect without the part so held to be unconstitutional or invalid.

General Authority: NDCC 4.1-26, 4.1-26-06

Law Implemented: NDCC 4.1-26-06