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PROPOSED RULEMAKING

MILK MARKETING BOARD

[7 PA. CODE CH. 149]

Uniform System of Accounts

[46 Pa.B. 3655]

[Saturday, July 9, 2016]

The Milk Marketing Board (Board) proposes to amend § 149.43 (relating to cost centers and operating accounts) and add § 149.46 (relating to cooperative cost centers) to read as set forth in Annex A.

1. *Purpose and Statutory Authority*

The Board sets milk prices in this Commonwealth at each level—producers (farmers and cooperatives), wholesale (milk dealers) and retail (stores). Cost reporting by the various parties is an important component of setting the prices. Section 704 of the Milk Marketing Law (act) (31 P.S. § 700j-704) requires the Board to promulgate a uniform system of accounts for the cost reporting. Section 301 of the act (31 P.S. § 700j-301) gives the Board the authority to adopt and enforce regulations necessary or appropriate to carry out the act.

The proposed amendments to § 149.43 delete milk dealer cost categories that have become outdated, add new categories and clarify category descriptions. Proposed § 149.46 provides a framework for cooperatives to report costs they are not currently reporting, provides more detailed data relevant to the Board's responsibility and broad authority to regulate the dairy industry in this Commonwealth.

2. *Summary*

Section 149.43 provides for the reporting of milk dealer costs and has two parts: a listing of the general cost centers in subsection (a); and a listing of the more specific operating ledger accounts in subsection (b). Two cost centers (processing services and bottle washer) are proposed to be deleted because they are seldom used. Several of the operating ledgers are proposed to be deleted for the same reason, and several are proposed to be added because they are used more frequently than they were previously. The proposed deletion of some categories does not mean that those costs are no longer reported, but rather that separate categories for those costs were no longer justified; the costs will be reported in other categories.

The Board's regulations already have an extensive accounting system for milk dealers. Most cooperatives are licensed as milk dealers, and the cooperatives do some limited financial reporting, but processing dealers and cooperatives have significant operational differences. Co-ops market a majority of the milk produced in this Commonwealth. The Board determined that new regulations and a reporting mechanism are appropriate for the Board to accurately determine relevant co-op costs.

3. *Affected Persons and Parties*

The proposed amendments to § 149.43 essentially bring the regulations up to date to correspond to how the dealers currently report, and therefore are not expected to significantly affect the dealers.

Proposed § 149.46 will affect licensed cooperatives which will be reporting these costs. Only a cross-section of about six cooperatives will likely be required to submit the detailed cost reports. Some processing dealers will be invited to voluntarily submit reports like the co-op report for comparison purposes.

4. *Public Hearing*

The Board held a public hearing about this proposed rulemaking on March 23, 2016. The draft proposed rulemaking was available on the Board's web site at www.mmb.pa.gov and e-mailed to interested parties in advance. The notice regarding the public hearing was published at 46 Pa.B. 1103 (February 27, 2016). Testimony was given by Board staff, a Pennsylvania Association of Milk Dealers (PAMD) accountant, a Pennsylvania Association of Dairy Cooperatives (PADC) representative and a PADC accountant. Others in attendance included a PAMD attorney and the Executive Vice President, a Deputy Secretary and an attorney from the Department of Agriculture, a Pennsylvania Food Merchants Association attorney, a PADC attorney and accountant, a milk dealer, a Pennsylvania Farm Bureau attorney, a newspaper reporter, the Board Secretary and chief counsel, staff counsel and the three members of the Board (one member participated by phone). A representative of the United States Department of Agriculture received the draft regulations but did not attend the meeting.

5. *Fiscal and Administrative Impact*

The proposed amendments to § 149.43 are not expected to have significant fiscal or administrative impact on milk dealers or any other parties. Proposed § 149.46 will have a limited fiscal and administrative impact on the cooperatives in the cross-section, estimated by them to be a total of about \$15,000 the first year, and about \$9,200 each subsequent year.

6. *Effective Date*

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

7. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 28, 2016, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Agriculture and Rural Affairs. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the General Assembly and the Governor.

8. *Public Comments*

Interested persons are invited to submit written comments, suggestions or objections about this proposed rulemaking to Douglas Eberly, Chief Counsel, Milk Marketing Board, 2301 North Cameron Street, Harrisburg PA 17110, ra-pmmmb@pa.gov within 30 days after publication in the *Pennsylvania Bulletin*. Individuals who require this information in a different format may call the Pennsylvania AT&T Relay Service for TDD users (717) 787-4194 or (800) 654-5984.

TIM MOYER,
Secretary

Fiscal Note: 47-17. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 7. AGRICULTURE****PART VI. MILK MARKETING BOARD****CHAPTER 149. UNIFORM SYSTEM OF ACCOUNTS****CHART OF ACCOUNTS**

§ 149.43. Cost **[center]** **centers** and operating accounts.

(a) Cost centers shall be as follows:

(1) *Receiving, laboratory, and field work.*

(2) *Standardization and pasteurization.* Productive cost center, which includes accountable costs associated with standardizing, pasteurizing and homogenizing milk.

(3) *Bottling.* Productive cost center, which includes accountable costs **[association]** **associated** with the bottling and packaging of fluid milk and cream items.

(4) *Manufacturing other than ice cream.* Productive cost center, which includes all accountable costs associated with the manufacture of **sour cream**, cottage cheese, dips, and so on.

(5) *Ice cream manufacturing.* Productive cost center, which includes accountable costs associated with the manufacture of ice cream and **other** frozen **[dessert]** products.

(6) *Ice cream hardening room.* Productive cost center, which includes accountable costs associated with operating the ice cream and frozen **[desserts]** **products** hardening room.

(7) *Cold room, shipping and loading.* Productive cost center, which includes accountable costs associated with storing finished fluid milk products and other perishable products handled by the licensee, including shipping and loading and unloading of transportation units.

(8) *Delivery.* Productive cost center, which includes accountable costs associated with the delivery of milk, **cream and other products (excluding ice cream and other frozen products)** on routes.

[(9) (Reserved).

(10)] (9) *Delivery, ice cream.* Productive cost center, which includes accountable costs associated with the delivery of ice cream and **other** frozen **[dessert]** products to customers.

[(11)] (10) *Selling.* Productive cost center, which includes accountable costs associated with selling of the products handled~~[.]~~, **and shall be separated into the following categories:**

(i) Ice cream, which includes ice cream and other frozen products.

(ii) Packaged milk and cream, which includes packaged fluid milk, cream, sour cream and any other products for which the Board sets minimum prices (whether the transaction is controlled or noncontrolled).

(iii) Other products, which include items such as drinks, juices, ice cream mix, dips, bulk sales of fluid milk and cream, and any other items not included in subparagraph (i) or (ii).

[(12)] (11) *Administrative*. Productive cost center, which includes the total accountable costs associated with administering the overall business of the licensee.

[(13) *Processing service*. Includes the cost of services rendered by a processing dealer to a nonprocessing dealer. This is to be used only by a nonprocessing dealer. On its report, processing dealer shall include the cost of such services in the applicable cost centers.

[(14)] (12) *Garage*. Service cost center from which all expenditures shall be distributed to the productive and service cost centers in proportion to the benefit that the garage renders to other cost centers.

[(15)] (13) *Transportation*. Service cost center, which includes accountable costs associated with transporting milk of the licensee from the plant where processed to the distribution point or center of licensee. **[Such costs] Costs** accumulated in this center shall be distributed to the respective productive cost centers in proportion to the benefit that this cost center renders to the productive cost centers.

[(16)] (14) *Power plant and refrigeration*. Service cost center from which expenditures shall be distributed to the productive and service cost centers in proportion to the benefit that the power plant and refrigeration renders to other cost centers.

[(17)] (15) *Warehouse*. Service cost center from which all warehouse expenditures shall be distributed to the productive and service cost centers in proportion to the benefit that the warehouse renders to other cost centers.

[(18)] (16) *General plant maintenance*. Service cost center from which all general plant maintenance expenditures shall be distributed to the productive and service cost centers in proportion to the benefit that the general plant maintenance renders to other cost centers.

[(19)] (17) *Blow-molder*. Productive cost center which includes accountable costs associated with the production of blow-mold plastic containers.

[(20) *Bottle washer*. Productive cost center which includes accountable costs associated with returnable containers.]

(b) Operating ledger accounts **for the operations of the licensed dealer** shall be as follows:

(1) *Executive salaries*. Includes salaries, wages, and other forms of compensation assigned to corporate officers, such as president, vice president, secretary and treasurer, partners and single proprietors, but excludes any fringe benefits.

[(2) (Reserved).

(3) (Reserved).

[(4)] (2) *Other salaries and wages*. Includes all other salaries and wages paid.

[(5) *Social Security*] (3) *Payroll taxes*. Includes F.I.C.A. tax, Pennsylvania unemployment compensation tax, and Federal unemployment compensation tax.

[(6) *Workmen's compensation insurance*. Includes the premium paid for workmen's compensation insurance.]

(4) *Workers' compensation insurance*. Includes the premiums paid and costs incurred for workers' compensation coverage.

[(7) Employee] (5) Employee health and welfare. Includes group life insurance premiums, health and accident insurance premiums, and medical insurance premiums paid by the employer for the benefit of **[employees] employees**. If the premiums are divided between the employer and the **[employee] employee**, only that portion paid by the employer should be included in this account.

[(8) Employee] (6) Employee pension plan. Includes contributions made to pension plans by the employer for the benefit of the **[employees] employees**. If the contributions are divided between the employer and the **[employee] employee**, only that portion paid by the employer should be included in this account.

[(9) Employee] (7) Employee uniforms. Includes cost of uniforms paid by the employer for the benefit of the **[employees] employees**. If the cost is divided between the employer and the **[employee] employee**, only that portion paid by the employer should be included in this account.

[(10) Employee] (8) Employee relations. Includes expenditures made by the employer for personnel relations.

[(11)] (9) Repair and maintenance, machinery and equipment. Includes materials and purchased services for general repairs and maintenance of plant machinery and equipment, furniture, and fixtures.

[(12) (Reserved).

(13) (Reserved).

(14) Repair and maintenance, ice cream delivery equipment. Includes materials and purchased services for general repairs and maintenance of ice cream delivery equipment.

(15)] (10) Repair and maintenance, buildings. Includes materials and purchased services for general repairs and maintenance of buildings.

[(16) Repair and maintenance, milk cases and pallets. Includes materials and purchased services for general repairs of cases and pallets.

(17)] (11) Supplies and equipment, office. Includes the cost of **computer hardware and software, printers, copiers**, stationery, paper, envelopes, pencils, pens, typewriter ribbons, copy paper, and other supplies of this nature.

[(18)] (12) Operating and cleaning supplies. Includes manufacturing and cleaning supplies and materials used in the processing and manufacturing centers.

[(19)] (13) Depreciation, machinery, and equipment. Includes depreciation on plant machinery and equipment **and office equipment**.

[(20) (Reserved).

(21) (Reserved).

(22) Depreciation, ice cream delivery equipment. Includes depreciation on vehicles used for ice cream delivery.

(23)] (14) Depreciation, buildings. Includes depreciation on buildings used for processing, manufacturing, garage, warehouse and branch buildings.

[(24)] (15) *Depreciation, milk cases and pallets.* Includes depreciation on milk cases and pallets used for all products handled by the licensee.

[(25)] (16) *Light, [heat,] power, water and sewage.* Includes costs incurred for [heating and] operating office and plant, electricity, water, power, gas and sewage.

[(26)] (17) *Fire and other insurance.* Includes premiums paid for fire insurance coverage on buildings and contents, trucks, trailers, and automobiles and premiums paid for theft insurance coverage, public liability coverage and product liability coverage.

[(27)] (18) *Real estate taxes.* Includes real estate taxes paid to cities, counties, boroughs and townships.

[(28)] (19) *Taxes other than income and real estate.* Includes all other taxes paid except F.I.C.A., Pennsylvania unemployment tax, and State and Federal income taxes.

[(29)] (20) *State sales and use tax.* Includes sales and use tax paid on all expense type items. Sales and use tax paid on capitalized items shall be included in the asset amount capitalized.

[(30)] (21) *Rent—land and buildings.* Includes rental payments for land, office buildings, plant, warehouse space and so on, provided the lessor/lessee relationship is between two completely independent parties.

[(31)] (22) *Gasoline, oil and grease.* Includes expenditures for gasoline, oil, and grease for plant and transportation equipment.

[(32)] (23) *Licenses and permits.* Includes the cost of licenses and permits required by the Commonwealth and by any cities, counties, boroughs and townships for the operation of the business.

[(33)] (24) *Advertising.* Includes expenditures for local, regional and [national] **National** advertising and promotions, including newspapers, magazines, pamphlets, circulars and calendars, radio and television, signs and displays, and product sampling.

[(34)] (25) *Travel and entertainment.* Includes traveling and subsistence expenses[, including automobile mileage,] of salesmen, officers, and any other [employee] **employee** on company business; also includes entertainment expenses normally incurred in business travel under this item.

[(35)] (26) *Telephone and [telegraph] Internet.* Includes telephone, **postage** and [telegraph] **Internet** charges.

[(36)] **Postage. Includes expenditures for postage.**

(37)] (27) *Subscriptions.* Includes expenses for periodic professional publications.

[(38)] **Rental and royalties on equipment.] (28) Rent—equipment.** Includes cost of renting, leasing, and using any office, plant, or transportation equipment; includes royalties paid on equipment.

[(39)] (29) *Professional services.* Includes all legal, accounting, auditing and similar expenses.

[(40)] (30) *Tires and tubes, new and repairing.* Includes all expenditures for tires, tubes, recaps, and repairs to tires and tubes.

[(41) (Reserved).

(42) (Reserved).

(43) *Processing service.* Includes the cost of service rendered by a processing dealer to a nonprocessing dealer, to be used only by a nonprocessing dealer. This shall be recorded completely in processing service cost center.

[(44)] (31) *Commissions and wages.* Includes commissions and wages paid to route drivers, route runners and supervisors.

[(45)] (32) *Repair and maintenance, delivery equipment.* Includes materials and purchased services for general repairs and maintenance of delivery trucks.

[(46)] (33) *Depreciation, delivery equipment.* Includes depreciation on delivery vehicles.

[(47)] (34) *Bad debts.* Includes amount charged as expense resulting from uncollectible sales.

[(48) *Depreciation returnable containers.* Includes depreciation on returnable containers.

(49) *Plastic resin.* Includes resin purchased for the production of blow-mold plastic containers. Charge directly to the blow-molder cost center.

(50) *Other bottling supplies.* Includes materials such as caps, handles, glue, and the like, not included in container expense. Charge directly to bottling cost center.

(51) *Bulk milk hauling expense.* This account is set up to capture the unreimbursed costs associated with hauling bulk or excess milk. If a contract hauler is used, enter the actual cost. If the dealer hauls the bulk milk, obtain a hauling rate from a local contract hauler to determine the cost.

(52) *Bulk milk hauling contra account.* This contra account is set up as the credit account to be used with the bulk milk hauling expense account when the dealer hauls the bulk milk.

(53) *Bulk cream hauling expense.* This account is set up to capture the unreimbursed costs associated with hauling bulk or excess cream. If a contract hauler is used, enter the actual cost. If the dealer hauls the bulk cream, obtain a hauling rate from a local contract hauler to determine the cost.

(54) *Bulk cream hauling contra account.* This contra account is set up as the credit account to be used with the bulk cream hauling expense account when the dealer hauls the bulk cream.

(55) *Contract hauling expense.* This account is set up to capture all reimbursed contract hauling costs.]

(35) *Contract hauling and delivery expense.* This account is set up to capture all contracted bulk milk and cream hauling costs and finished product delivery costs.

[(56)] (36) *Hauling reimbursement.* This account is set up to capture all reimbursements received by the dealer to cover hauling costs.

(37) *Heating fuel.* Costs incurred for heating fuel such as natural gas and fuel oil.

(38) *Cases expense.* Costs incurred for shipping cases and pallets.

(39) *Home office expense.* Organizational overhead which can be allocated to the licensed dealer.

(40) *Garage income.* Income received by the organization for services performed in its garage facilities.

(41) *Back hauling income (delivery cost center only).* Income received for back hauling shall be separated into the following categories:

(i) Back hauling after deliveries of ice cream and frozen dessert products.

(ii) Back hauling after deliveries of other products.

(42) *Market Administrator fees (receiving, laboratory and field work cost center only).* Fees paid to the United States Department of Agriculture Market Administrator excluding producer-settlement fund payments.

(43) *Plant closing costs.* Expenses incurred by the closing of a processing plant, if the closing directly impacts the product volume of a licensed dealer, and the dealer is an affiliated or related company or the same company that closed the plant.

(44) *Turnpike and other tolls.* Costs incurred for the Pennsylvania Turnpike and other tolls.

(45) *Employee reimbursement.* Costs incurred for reimbursing employees for use of their personal vehicles or other property.

(46) *Rental income.* Income received for the rental or other use of any of the property for which costs are reported, which is not reported in any other income category.

(47) *Interest expense.* Costs incurred for interest on loans related to the dealer's operations.

(48) *Miscellaneous.* Accountable costs incurred for the dealers' operations that are not captured in any other account. The dealer should provide an explanation of any miscellaneous costs.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 149.46 Cooperative cost centers.

(a) Cost centers for cooperatives, as defined in the act, shall be as follows:

(1) *Field services.* Providing direct assistance to producers by inspecting and improving producer milk production and quality.

(2) *Laboratory.* Testing for quality and components of producer milk and bulk milk delivered to dealers including direct testing costs and related materials.

(3) *Producer payroll.* Making payment to producers for milk.

(4) *Sales invoicing.* Invoicing producer milk customers.

(5) *Dispatch, logistics and hauling.* Hauling and coordinating the hauling of producer milk for both collection and delivery of raw milk.

(6) *Calibration services.* Providing producer calibration services including cooperative-owned vehicles.

(7) *Producer relations.* Developing and maintaining producer relationships.

(8) *Customer relations.* Developing and maintaining customers for producer milk.

(9) *General and administrative.* Administering and managing the cooperative's milk marketing activity including costs related to human resources, information technology, corporate and executive expenses, professional fees and occupancy. The amount shall be a proportion of these costs which the cooperative reasonably allocates to its milk marketing activity based on an allocation method acceptable to the Board.

(b) Cooperatives shall report these cost centers and any other information required by the Board in accordance with reporting forms issued by the Board which will include instructions and reporting deadlines. The reporting requirements for cooperatives may also include any of the information that dealers are required to provide.

(c) The cost allocations shall be based only on the cooperatives' milk marketing activities for their producers (members and nonmembers) unless otherwise directed by the Board.

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