

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

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(1) Agency: **Pennsylvania Milk Marketing Board**

(2) Agency Identification Number: **47-17**

IRRC Number: **3154**

(3) PA Code Cite: **7 Pa. Code § 149.43 and §149.46**

(4) Short Title: **Uniform System of Accounts: Cost centers and operating accounts; Cooperative cost centers**

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: **Tim Moyer, Secretary – 717.787.4194**

Secondary Contact: **Andy Saylor, Staff Attorney – 717.787.4374**

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation

- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less). **The Board sets milk prices in Pennsylvania 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. The modifications to Section 149.43 delete dealer cost categories that have become outdated, add new categories, and clarify category descriptions. The new section 149.46 provides a framework for cooperatives to report costs they were not previously reporting, so that the Board can determine the relevance of those costs to its price-setting function and to its general responsibility to regulate the Pennsylvania dairy industry.**

(8) State the statutory authority for the regulation. Include specific statutory citation. **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 production, transportation, disposal, manufacture, processing, storage, distribution, delivery, handling, bailment, brokerage, consignment, purchase and sale and milk and milk products in this Commonwealth, and including the establishment of reasonable trade practices, systems of production control and marketing area committees in connection therewith..." 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 704 of the Law requires the Board to promulgate a uniform system of accounts (31 P.S. § 700j-704).**

(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.

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

The amendments to Section 149.43 delete dealer cost categories that have become outdated, add new categories, and clarify category descriptions. The 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.

(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. **The federal government regulates prices paid to producers. The Board has regulated milk prices in Pennsylvania since the Law (or its successor) was originally passed more than 80 years ago. Time has shown the value of the Commonwealth having a separate regimen for setting milk prices at all three levels (producer/farmer, wholesale, retail). Reporting of co-op costs will be a new development but entirely consistent with the Board's role of obtaining milk procurement and production costs, in order to effectively regulate the industry and set prices.**

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states? **No other state has a comparable regulation to our knowledge. This co-op reporting is indicative of the Board's ability and willingness to respond to developments and trends in the dairy industry when appropriate, which is beneficial to the Pennsylvania dairy industry's competitiveness.**

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations. **This regulation is being incorporated into Chapter 149 (Uniform System of Accounts) of the Board's regulations but does not directly affect any other regulations.**

(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.)

A draft of the regulations was emailed on January 21, 2016 to all the interested parties from the hearing which had been requested by the dairy cooperatives' association about co-op costs. The interested parties were invited to a public meeting at the Board offices on February 3, 2016 to

discuss the draft regulations. The participants included the Board Secretary and Chief Counsel, Board Staff and Staff Counsel; the Pennsylvania Association of Dairy Cooperatives (PADC) attorney, accountants, and representatives; the Pennsylvania Association of Milk Dealers (PAMD) attorney and accountant; a large milk dealer's attorney; the Pennsylvania Farm Bureau (PFB) attorney; and a Pennsylvania Department of Agriculture (PDA) attorney. (A representative of the US Department of Agriculture and the attorney for the Pennsylvania Food Merchants Association (PFMA) received the draft but did not attend the meeting.)

Following that meeting, the regulations were revised, and the revision was emailed to the interested parties on February 18, 2016. The revised regulations were posted on the Board website (www.mmb.pa.gov). The "Notice of Hearing – Amendment to 7 Pa. Code Chapter 149 – Uniform System of Accounts" was published at 46 Pa. Bulletin 1103 on February 27, 2016. The Board hearing about these regulations was held on March 23, 2016. Testimony was given by Board staff, the PAMD accountant, a PADC representative, and the PADC accountant. Others in attendance included the PAMD attorney and Executive Vice President, a Deputy Secretary and an attorney from PDA, the PFMA attorney, the PADC attorney and another PADC accountant, a milk dealer, the PFB attorney, a newspaper reporter, the Board Secretary and Chief Counsel, Staff Counsel, and the Board (one member participated by phone).

Following that meeting, the regulations were revised, and the revisions were sent to the interested parties on April 14, 2016, inviting any final comments before submission of the proposed regulations to the regulatory review process.

(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 new section 149.46 requires co-ops licensed by the Board to report certain information to the Board. This may involve some additional accounting, especially at the beginning when the co-ops are segregating the required cost information in a way that they might not have been doing before. However, it is likely that only about six co-ops will be required to provide the detailed report. The amendments to section 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.

(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. Co-ops licensed by the Board can be required to provide the information described in the regulations. However Section 801 of the Law (31 P.S. § 700j-801) allows the Board to rely on the information provided by a cross-section of entities rather than requiring all to report. It is likely that only about six co-ops will be required to provide the report. The amendments to section 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.

(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 reporting of the information provides the Board with more comprehensive information about the milk industry in Pennsylvania, which in itself enhances the Board's ability to effectively and positively impact the milk industry at all three

levels (producer/farmer, wholesale, and retail). The amendments to section 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.

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

The regulated community (the cooperatives) requested a process which would make it possible to determine and recognize certain of their costs. The Board determined that the current framework used to determine processing milk dealer costs was effective and would serve as an appropriate model to develop a method to determine certain cooperative costs. This regulation will provide relevant cost information; whether to recognize the costs is a matter for hearings not regulations. The cooperatives have acknowledged their willingness to bear the cost by requesting this process. The compilation of the information is also beneficial to the Board in its general fulfillment of its responsibilities; Section 801 of the Law says that milk prices are to be based "upon all conditions affecting the milk industry" and the co-ops are certainly a major component of the Pennsylvania milk industry. The updated section 149.43 is not expected to create any significant costs or adverse effects.

(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 regulated community (the cooperatives which will likely comprise the cross section) which will be reporting under new section 149.46 was invited to estimate their reporting costs. Their estimates for the total cost for the group are \$15,000.00 for the first year and \$9,200.00 for subsequent years. The revisions to section 149.43 are not expected to create any significant new costs for the regulated community (dealers) because they are already reporting, and the revisions are simply bringing up to date the list of categories in which they report. Some dealers will be invited to voluntarily report their costs in the categories listed in new section 149.46, which may require some segregation of costs different than their usual categorization, but we expect the cost to do so will not be significant and in any event is voluntary.

(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 are no estimated 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. The Milk Marketing Board will be engaged in new auditing of cooperative costs in conjunction with new section 149.46, but we do not expect to add any personnel or incur significant new costs.

(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. The reporting form for the costs related to new section 149.46 is still being developed. The current version is attached ("Cooperative 60c Reporting Form"). We will continue to work with the cooperatives to develop the form to allow for the most efficient and effective reporting of the relevant costs. The

amendments to section 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.

(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 | n/a | n/a | n/a | n/a | n/a | n/a |
| Local Government | n/a | n/a | n/a | n/a | n/a | n/a |
| State Government | n/a | n/a | n/a | n/a | n/a | n/a |
| Total Savings | n/a | n/a | n/a | n/a | n/a | n/a |
| COSTS: | | | | | | |
| Regulated Community | \$15,000.00 | \$9,200.00 | \$9,200.00 | \$9,200.00 | \$9,200.00 | \$9,200.00 |
| Local Government | n/a | n/a | n/a | n/a | n/a | n/a |
| State Government | n/a | n/a | n/a | n/a | n/a | n/a |
| Total Costs | \$15,000.00 | \$9,200.00 | \$9,200.00 | \$9,200.00 | \$9,200.00 | \$9,200.00 |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | n/a | n/a | n/a | n/a | n/a | n/a |
| Local Government | n/a | n/a | n/a | n/a | n/a | n/a |
| State Government | n/a | n/a | n/a | n/a | n/a | n/a |
| Total Revenue Losses | n/a | n/a | n/a | n/a | n/a | n/a |

(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.

The cross-section of cooperatives which will be reporting under new section 149.46 are not small businesses as defined by the Regulatory Review Act (which incorporates the federal definition, which for the dairy cattle and milk production category is maximum annual receipts of \$750,000.00). Even if any impacted businesses would qualify as small businesses, the cost impact is reasonable, as stated above in section 19. The agency has endeavored to minimize the intrusion and cost of achieving the purpose of the proposed regulation, and we believe no less intrusive or costly method would achieve the purpose.

(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 cooperatives are comprised of dairy farmers. The agency is at all times aware of the impact of its activities and the Board is at all times aware of the impact of its decisions on farmers, cooperatives, dealers, and consumers. The development of these proposed regulations was no exception. The proposed regulations do not adversely impact the particular needs of minorities or the elderly, or any other groups or persons of which we are aware.

(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. We are in continuing communication with the regulated community to consider any alternatives to the proposed regulations and our implementation of them. We believe the proposed regulation is the least burdensome acceptable alternative. We also believe that establishing categories of costs in new section 149.46, and fleshing them out in the reporting process, rather than attempting to be overly specific at this stage of the process, we are complying with our obligation to establish the uniform system of accounts, without imposing unnecessary and potentially burdensome detail in the regulations. Section 149.46 does allow the agency to require the cooperatives to include any of the information that dealers are required to provide.

(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 performing 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.

The new regulation 149.46 allows the agency to establish reporting requirements and deadlines in reporting forms which the Board will issue. These will be set in communication with the affected businesses (the cooperative cross-section), although they are not necessarily small businesses. The agency seeks to minimize the impact on small businesses (to the extent any will be affected) to the extent that can be done while still achieving the purpose of the regulation. This is another reason it is advantageous to establish categories in the regulations without imposing unnecessary and

burdensome detail or requirements that need not be included in the 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. **These proposed regulations are for the purpose of gathering data, they are not based on data.**

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

- | | |
|---|--|
| A. The date by which the agency must receive public comments: | 30 days after publication |
| B. The date or dates on which public meetings or hearings will be held: | not applicable |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | after approval by the Board following completion of the regulatory review process |
| D. The expected effective date of the final-form regulation: | upon publication |
| E. The date by which compliance with the final-form regulation will be required: | by reporting dates set by the agency following final publication |
| F. The date by which required permits, licenses or other approvals must be obtained: | not applicable |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation. **As the annual reporting proceeds in accordance with the regulations, and the agency audits the reporting, modifications will be made if needed.**

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| <p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: <u><i>[Signature]</i></u> (DEPUTY ATTORNEY GENERAL)</p> <p><u>6/8/16</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>PENNSYLVANIA MILK MARKETING BOARD (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. 47-17</p> <p>DATE OF ADOPTION: <u>6/8/16</u></p> <p>BY: <u><i>[Signature]</i></u></p> <p>NAME & TITLE: Tim Moyer, Secretary</p> | <p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY: <u><i>[Signature]</i></u> Douglas Eberly, Chief Counsel</p> <p><u>6/6/16</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 CH. 149]

UNIFORM SYSTEM OF ACCOUNTS

The Pennsylvania Milk Marketing Board ("Board") proposes to amend 7 Pa. Code Chapter 149 (System of Accounts) by modifying section 149.43 (Cost centers and operating accounts) and adding a new section 149.46 (Cooperative cost centers).

1. *Purpose and statutory authority*

The Board sets milk prices in Pennsylvania 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. The Pennsylvania Milk Marketing Law ("Law") requires the Board to promulgate a uniform system of accounts for the cost reporting (31 P.S. § 700j-704). The Law gives the Board the authority to adopt and enforce regulations necessary or appropriate to carry out the provisions of the Law (31 P.S. § 700j-310).

The modifications to Section 149.43 are intended to delete milk dealer cost categories that have become outdated, to add new categories, and to clarify category descriptions. The new section 149.46 is intended to provide a framework for cooperatives to report costs they are not currently reporting, providing more detailed data relevant to the Board's responsibility and broad authority to regulate Pennsylvania's dairy industry.

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 section 149.43(a) and a listing of the more specific operating ledger accounts in section 149.43(b). Two cost centers (processing services and bottle washer) are being deleted because they are seldom used. Several of the operating ledgers are being deleted for the same reason, and several are being added because they are used more frequently than they were previously. The 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 Pennsylvania. The Board has 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 amendments to section 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.

The addition of section 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 the proposed regulations on March 23, 2016. The draft proposed regulations had been posted on the Board website (www.mmb.pa.gov) and emailed to interested parties in advance. The Notice of Hearing was published at 46 Pa. Bulletin 1103 on 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 Executive Vice President, a Deputy Secretary and an attorney from the Pennsylvania Department of Agriculture, a Pennsylvania Food Merchants Association attorney, a PADC attorney and a PADC 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 U.S. Department of Agriculture received the draft regulations but did not attend the meeting.

5. *Fiscal and administrative impact*

The amendments of section 149.43 are not expected to have any significant fiscal or administrative impact on the milk dealers or any other parties. The addition of section 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 fifteen thousand dollars the first year, and about nine thousand two hundred dollars each subsequent year.

6. *Effective date*

The regulations will be effective upon publication of the final regulations in the *Pennsylvania Bulletin*. There is no sunset provision for these regulations.

7. *Regulatory review*

On _____, 2016, 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 ("Act") [71 P.S. § 745.5(a)]. A copy of this material is available to the public upon request.

The IRRC may convey any 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 in section 5.2 of the Act 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.

8. *Public comments*

Interested persons are invited to submit written comments, suggestions, or objections about the proposed amendments to Douglas Eberly, Chief Counsel, Pennsylvania Milk Marketing 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 which is the PA relay service for TDD users.

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 non-controlled)**
- (iii) Other products, which includes items such as drinks, juices, ice cream mix, dips, bulk sales of fluid milk and cream, and any other items not included in (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 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)] (3) [*Social Security*] *Payroll taxes.* Includes F.I.C.A. tax, Pennsylvania unemployment compensation tax, and Federal unemployment compensation tax.

[(6)] (4) [*Workmen's*] *Workers' compensation insurance.* Includes the premiums paid and costs incurred for [*workmen's*] workers' compensation [*insurance*] coverage.

[(7)] (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. If the premiums are divided between the employer and the employee, only that portion paid by the employer should be included in this account.

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

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

[(10)] (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, stationary, 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 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 employe on company business; also includes entertainment expenses normally incurred in business travel under this item.

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

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

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

[(38)] (28) *Rent – equipment [Rental and royalties on 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)] (35) *Contract hauling and delivery expense*. This account is set up to capture all [reimbursed contract] 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 USDA 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's operations that are not captured in any other account. The dealer should provide an explanation of any miscellaneous costs.

* * * * *

§ 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 but not necessarily limited to 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 & Administrative.* Administering and managing the cooperative's milk marketing activity including but not necessarily limited to 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 shall 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 non-members) unless otherwise directed by the Board.



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TO: Independent Regulatory Review Commission

FROM: Andy Saylor, Staff Attorney
Pennsylvania Milk Marketing Board

DATE: June 28, 2016

SUBJECT: Milk Marketing Board Chapter 149 Proposed Regulations

The Milk Marketing Board proposes to amend 7 Pa. Code Chapter 149 (System of Accounts) by revising section 149.43 (Cost centers and operating accounts) and adding a new section 149.46 (Cooperative cost centers). A copy of the proposed regulations is enclosed, along with the completed transmittal sheet.

Please contact me if you have any questions – asaylor@pa.gov or (717) 787-4374.

Thank you for your consideration.

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

I.D. Number: 47-17

Subject: Uniform System of Accounts – Cost centers and operating accounts; Cooperative cost centers

Agency: Pennsylvania Milk Marketing Board

2016 JUN 28 AM 10:08
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TYPE OF REGULATION

Proposed Regulation

FILING OF REGULATION

| <u>DATE</u> | <u>SIGNATURE</u> | <u>DESIGNATION</u> |
|----------------|---------------------------|---|
| <u>6/28/16</u> | <u>K Cooper</u> | House Committee on Agriculture & Rural Affairs (Majority Chair) IRRC |
| <u>6-28-16</u> | <u>[Signature]</u> | House Committee on Agriculture & Rural Affairs (Minority Chair) |
| <u>6-28-16</u> | <u>Jane B Heintzelman</u> | Senate Committee on Agriculture & Rural Affairs (Majority Chair) |
| <u>6/28/16</u> | <u>[Signature]</u> | Senate Committee on Agriculture & Rural Affairs (Minority Chair) |
| <u>6/28/16</u> | <u>[Signature]</u> | Independent Regulatory Review Commission House Comm. on Agriculture & Rural Affairs (Majority Chair) |
| <u>6-6-16</u> | <u>Mary Mummert</u> | Attorney General |
| <u>6/28/16</u> | <u>Courina Inaut</u> | Legislative Reference Bureau |