

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 111]

Boating; Horsepower Limits

The Fish and Boat Commission (Commission) proposes to amend Chapter 111 (relating to special regulations counties). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to horsepower limits at six State park lakes.

A. *Effective Date*

The proposed amendments, if approved on final-form rulemaking, will go into effect upon publication of an order adopting the amendments in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the proposed amendments, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposed rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

The proposed amendments to §§ 111.9—111.11, 111.32, 111.43 and 111.67 are published under section 5124 of the code (relating to particular areas of water).

D. *Purpose and Background*

The proposed amendments are designed to update, modify and improve the Commission's regulations pertaining to boating. The specific purpose of the proposed amendments is described in more detail under the summary of proposal. The Commission's Boating Advisory Board (BAB) has considered the proposal and has recommended that the Commission publish a notice of proposed rulemaking containing the proposed amendments.

E. *Summary of Proposal*

The Department of Conservation and Natural Resources (Department) announced on March 14, 2002, that boating horsepower limits at six State park lakes have been changed in a pilot program seeking better enforcement and the best protection of the environment. Under the pilot program, outboard motor limits have been increased from 10 horsepower to 18 horsepower at the following lakes: Lake Marburg, Codorus State Park, York County; Lake Wilhelm, Maurice K. Goddard State Park, Mercer County; Lake Arthur, Moraine State Park, Butler County; Lake Nockamixon, Nockamixon State Park, Bucks County; Glendale Lake, Prince Gallitzin State Park, Cambria County; and Yellow Creek Lake, Yellow Creek State Park, Indiana County. The pilot program went into effect immediately.

These changes, however, may not be permanent. Managers at each of the affected parks will closely monitor their lakes for signs of increased shoreline erosion or other adverse effects. The Department will continue to entertain public comments.

At the Department's request, the Commission has, in the past, adopted special boating regulations for State

park lakes. These regulations maintained unlimited horsepower at seven State park lakes; motors not larger than 10 horsepower at seven State park lakes (including the six where the test program has been implemented); and electric motors only at 35 State parks lakes.

With regard to the lakes included in the pilot program, staff of the Commission believe that the special regulations governing them should be rescinded until the Department has made a final determination as to horsepower limits. In the meantime, the Commission's Bureau of Law Enforcement will defer to the Department with regard to the enforcement of horsepower limits.

In this notice of proposed rulemaking, the Commission also is proposing an amendment to § 111.11(a) (relating to Cambria County) to add text that previously was inadvertently omitted.

F. *Paperwork*

The proposed amendments will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments will impose no new costs on the private sector or the general public.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-127. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 111. SPECIAL REGULATIONS COUNTIES

§ 111.9. Bucks County.

* * * * *

(c) [*Nockamixon Lake—Nockamixon State Park*. The use of motors in excess of 10 horsepower is prohibited.

(d) [*Tyler State Park*. * * *

[(e)] (d) *Delaware River.* * * *

§ 111.10. **Butler County.**

[(a)] **Lake Arthur—Moraine State Park. The use of motors in excess of 10 horsepower is prohibited.**

(b)] *Glade Run Lake.* * * *

§ 111.11. **Cambria County.**

[(a)] **Duman Lake. The operation of boats powered by internal combustion motors is prohibited.**

[(b)] **Glendale Lake—Prince Gallitzin State Park. The use of motors in excess of 10 horsepower is prohibited.]**

§ 111.32. **Indiana County.**

* * * * *

(b) [**Yellow Creek Lake—Yellow Creek State Park. The use of motors in excess of 10 horsepower is prohibited.**

(c)] *Conemaugh River Lake.* * * *

§ 111.43. **Mercer County.**

[(a)] **Lake Wilhelm—M. K. Goddard State Park. The use of a motor in excess of 10 horsepower is prohibited.**

(b)] *Shenango River Lake.* * * *

§ 111.67. **York County**

* * * * *

(b) [**Lake Marburg—Codorus Sate Park. The use of motors in excess of 10 horsepower is prohibited.**

(c)] *Lake Redman.* * * *

[(d)] (c) *Lake Williams.* * * *

[Pa.B. Doc. No. 02-1375. Filed for public inspection August 9, 2002, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 143]

Elk Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 11, 2002, meeting, proposed the following amendments:

Delete §§ 143.204 and 143.205 (relating to unlawful acts; and penalties) and add §§ 143.206—143.208 (relating to validity of license; unlawful acts; and penalties) to establish where elk licenses are valid and whether an elk license is valid for an antlered or antlerless elk. Also, to provide for allowing elk hunters to be moved from assigned area.

The proposed amendments will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed amendments is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed amendments were made public at the June 11, 2002, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until September 27, 2002.

1. *Introduction*

The Commission is proposing to delete §§ 143.204 and 143.205 and add §§ 143.206—143.208.

2. *Purpose and Authority*

There are currently no provisions in Subchapter K (relating to elk licenses) describing where elk licenses are valid or whether an elk license is valid for an antlered or antlerless elk. Additionally, to improve hunter success and obtain maximum utilization of limited elk licenses, the Bureau of Wildlife Management may need to move hunters from their originally designated elk management unit to another management unit. The proposed amendments will establish those options and establish a preference to licensed hunters within an elk management area in the order their applications were drawn.

Section 2102(a) of the code (relating to regulations) directs the Commission to promulgate regulations, as it deems necessary and appropriate, concerning game or wildlife and hunting or furtaking in this Commonwealth. In addition, section 2722(g)(2) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of activities relating to hunting licenses. These sections provide the regulatory authority for the proposed amendments.

3. *Regulatory Requirements*

The proposed amendments will establish limited validity of elk licenses, establish procedures relating to elk licenses and expand hunting opportunities within elk management areas.

4. *Persons Affected*

Licensed elk hunters will be affected by the proposed amendments.

5. *Cost and Paperwork Requirements*

The proposed amendments should not result in additional cost or paperwork.

6. *Effective Date*

The proposed amendments will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the proposed amendments, contact David E. Overcash, Director, Bureau of Law Enforcement, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-148. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 143. HUNTING AND FURTAKE
LICENSES
Subchapter K. ELK LICENSES

§ 143.204. [Unlawful acts] (Reserved).

[It is unlawful for a person to:

(1) Submit more than one application for an elk license during any hunting license year.

(2) Apply for or to receive a license contrary to the act or this part.]

§ 143.205. [Penalties] (Reserved).

[A person violating this subchapter shall, upon conviction, be sentenced to pay the fine prescribed in the act.]

§ 143.206. Validity of license.

(a) An elk license is valid for taking elk only in the elk management area designated on the elk license and is valid for an antlerless or antlered elk as designated on the elk license.

(b) The Commission may change the elk management area designated on an elk license. If the Commission changes the designated elk management area and there is more than one hunter with a valid elk license in the elk management area the Commission is moving hunters from, preference will be given to the licensed hunters in the order their applications were drawn.

§ 143.207. Unlawful acts.

It is unlawful for a person to:

(1) Submit more than one application for an elk license during any hunting license year.

(2) Apply for or to receive a license contrary to the act or this part.

(3) Hunt for elk in an elk management area other than the elk management area designated on the elk license.

(4) Hunt or take an elk other than the antlered or antlerless elk designated on the elk license.

§ 143.208. Penalties.

A person violating this subchapter shall, upon conviction, be sentenced to pay the fine prescribed in the act.

[Pa.B. Doc. No. 02-1376. Filed for public inspection August 9, 2002, 9:00 a.m.]

MILK MARKETING BOARD

[7 PA. CODE CH. 150]

Milk Marketing Fees

The Milk Marketing Board (Board) proposes to amend Chapter 150 (relating to milk marketing fees) to read as set forth in Annex A.

Purpose of Proposed Amendments

The proposed amendments have three purposes: to adjust fees as necessary to reflect the administrative costs of issuing licenses; to meet the Board's budget requirements; and to achieve greater clarity and consistency.

Article XI of the Milk Marketing Law (law) (31 P. S. §§ 700j-1101—700j-1104) provides that all money collected by the Board from license fees and other sources shall be placed in a separate fund known as the Milk Marketing Fund (Fund), which is annually appropriated to the Board to pay its expenses. The Board is therefore self-supporting, receiving no revenues from the General Fund. Its chief source of revenue is license and certification fees. Monetary penalties paid by licensees in settlement of prosecution actions and miscellaneous income such as interest provide minor supplemental income. Of these sources, only license and certification fees are capable of meaningful adjustment to offset projected shortfalls.

Under current funding, the Board projects steadily declining balances in the Fund with an anticipated deficit of \$163,000 occurring in fiscal year 2005-2006 and a deficit of \$751,000 for fiscal year 2006-2007. To avoid the shortfalls projected to commence in fiscal year 2005-2006, the Board is proposing to increase license fees of milk dealers, subdealers and milk haulers beginning with the 2003-2004 license year (July 1, 2003—June 30, 2004) and the certification fees of milk weighers and samplers and milk testers beginning with the 2003 license year (January 1, 2003—December 31, 2003). These increases will result in the following projected balances: \$1.354 million for fiscal year 2003-2004; \$1.689 million for fiscal year 2004-2005; \$1.943 million for fiscal year 2005-2006; and \$2.113 million for fiscal year 2006-2007.

Summary of Proposed Amendments

Section 150.2

This new section identifies the time periods covered by, respectively, a license year and a certification year. References to these time periods occur throughout the regulations.

Sections 150.11—150.13, 150.41 and 150.42

The proposed amendments to the sections addressing license fees of milk dealers distinguish more clearly among the three fees imposed: a fixed fee for the initial license; a fixed fee for annual license renewal; and an annual hundredweight fee. Additional clarity has been provided with regard to what milk is subject to the hundredweight fee.

Section 150.12 (relating to additional annual fees) is subject to the higher fee and to milk for which the Board has not fixed a price is subject to the lower fee. Although that terminology tracks language in section 3(a)(2) and (3) of the Milk Marketing Fee Act (act) (31 P. S. § 700k-3(a)(2) and (3)), it is ambiguous. The Board fixes not only wholesale and retail prices but also prices for producer milk (raw milk sold by dairy farmers to milk dealers). Producer milk is not subject to the higher hundredweight fee. Therefore the Board has specified that the higher fee is imposed on milk subject to wholesale or retail prices fixed by the Board, thus eliminating producer milk. The lower fee is then imposed on all other milk handled within the State.

The Board proposes in § 150.11(b) (relating to annual fixed fee) to increase the initial application fee of milk dealers from \$50 to \$100 beginning with the 2003-2004 license year. The fee takes into account the staff time

required to review the application, contact the applicant to resolve discrepancies, prepare and present the application to the Board, generate the license, input the information into the computer system and create a file. Section 4(a) of the act (31 P. S. § 700k-4(a)) requires, however, that the Board prorate the "specific annual fee" for milk dealers "who are not engaged in the milk business at the commencement of the license period." Although the application fee is not paid annually, it is the only fee to which this directive could apply. Accordingly, the Board is compelled to lower the fee based on when the application is filed notwithstanding the fact that staff time is unaffected. Prorating will continue to be done on a quarterly basis.

The annual renewal fee for milk dealers under § 150.11(c) will remain \$50, which reflects the reduced amount of staff time required to process renewal applications.

In § 150.12, the Board is proposing modest increases in the hundredweight fees paid by milk dealers, namely, from \$.035 to \$.055 for milk subject to wholesale or retail prices fixed by the Board, and from \$.005 to \$.0064 on milk not subject to those prices. The increases will take effect commencing with the 2003-2004 license year.

The Board proposes to delete §§ 150.41 and 150.42 (relating to out-of-State sales; and exemptions). Section 150.41 recapitulates section 5 of the act (31 P. S. § 700k-5), which permits the Board to exclude certain categories of milk from the computation of license fees. The regulation does not, however, indicate what, if any, exclusions the Board has approved. The exclusions deemed appropriate now appear in § 150.12(d) of the proposed regulations. Section 150.12(d) excludes milk purchased by an in-State or out-of-State milk dealer from an out-of-State producer if the milk was diverted and never entered the purchasing dealer's plant. The Board has declined to exclude: (1) milk produced by an applicant but not sold by that applicant to stores or consumers; (2) milk sold in a state that also charges a hundredweight fee; and (3) an amount of nonprice controlled products sold from one licensed dealer to another licensed dealer or subdealer on which the fees in §§ 150.11—150.13 and 150.21—150.23, having determined that the reporting and administrative burdens of tracking the milk would outweigh any financial benefits.

Section 5 of the act also directs the Board, in computing the license fee, to ascertain and fix the fluid milk equivalent of milk other than fluid milk. The Board has exercised this authority in § 150.12(c) of the proposed rulemaking, which sets out the formulas for converting creams and condensed and concentrated milk to their fluid milk equivalents. That provision also describes the treatment of farm-separated sour cream, as mandated by section 5 of the act.

The proposed amendment to § 150.13 (relating to time for payment of fees) reorganizes the provision and generally enhance clarity. The sole substantive change is deletion of the statement that a milk dealer failing to make a timely installment payment on a license fee shall be deemed to be unlicensed. The Board has decided that it is more prudent to address the lapses on a case-by-case basis.

Sections 150.21—150.23

Subdealers are referred to in the existing regulations as milk subdealers. The statutorily defined term is, however, subdealer (see section 103 of the law (31 P. S. § 700j-103)). The Board proposes first to delete milk whenever it

precedes subdealers. Second, the Board proposes in § 150.21 (relating to fixed fee) to establish a fee of \$50 for an initial subdealer license and a fee of \$25 for a renewed license beginning with the 2003-2004 license year. The current fee of \$5 bears no relationship to the administrative costs of processing subdealer licenses. As with milk dealers, however, the fee for an initial license would be prorated based on when the license was issued.

Section 150.22 (relating to per hundredweight fee) has been amended to make clear that subdealers pay not a hundredweight fee but a fee based on their average monthly purchases of milk for which the Board has set a wholesale price. The Board proposes to add language excluding from the calculation any month during which the subdealer did not engage in business.

The proposed amendments to § 150.23 (relating to time for payment of fees) distinguish between payment of the initial application fee and the renewal fees.

Sections 150.51—150.53

The Board has maintained in § 150.51 (relating to fixed fee) a \$30 fee for an initial and renewed milk hauler license. The Board has also maintained the \$.005 hundredweight fee imposed under § 150.52 (relating to per hundredweight fee). Language was changed for consistency with other changes made in the proposed rulemaking and to clarify what milk the hundredweight fee is imposed on.

Sections 150.61 and 150.62

Because milk testers are certified, not licensed (see section 602 of the law (31 P. S. § 700j-602)), the Board proposes first to correct language referring to the credential. The Board proposes no increase in the milk tester's examination fee, initial application fee or renewal fee.

Sections 150.71 and 150.72

Like milk testers, milk weighers and samplers are certified, not licensed (see section 603 of the law (31 P. S. § 700j-603)). The Board has therefore corrected language referring to their credential. The Board proposes to increase the milk weighers and samplers examination fee from \$15 to \$25 and to increase the application and renewal fee from \$15 to \$20. This change reflects the staff time required to administer the examination and issue the certificate to a milk weigher and sampler and brings the certification fees in line with those of the milk testers.

Sections 150.81 and 150.82

The Board proposes an increase in fees for transferring a license from \$10 for \$50 based on the amount of staff time spent reviewing the application for transfer and issuance of a new license. The Board proposes no increase in fees charged for copying or certifying Board documents.

Statutory Authority

The act authorizes the Board to establish license fees for milk dealers, subdealers and milk haulers; certification fees for milk testers and milk weighers and samplers; a fee for transferring a license; and fees for copying and providing certification of Board documents. Section 10.1 of the act (31 P. S. § 700k-10.1) provides that these fees are for the exclusive use of the Board in carrying out its statutory duties.

Fiscal Impact

The proposed fee increases will have a fiscal impact on milk dealers, subdealers and milk weighers and samplers by requiring them to pay greater initial application, license renewal or hundredweight fees.

Paperwork Requirements

There will be no additional paperwork requirements for milk dealers, subdealers, milk haulers, milk testers or milk weighers and samplers.

Effective Date; Sunset Date

The proposed amendments will become effective upon publication in the *Pennsylvania Bulletin* as a final-form rulemaking. No sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 29, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees on Agriculture and Rural Affairs. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. 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 of objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections concerning the proposed amendments to Beverly R. Minor, Chairperson, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, within 30 days following publication in the *Pennsylvania Bulletin*.

LYNDA J. BOWMAN,
Secretary

Fiscal Note: 47-10. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART VI. MILK MARKETING BOARD

CHAPTER 150. MILK MARKETING BOARD FEES

GENERAL PROVISIONS

§ 150.1. Definitions.

[The words] When used in this chapter, terms **[and phrases]** defined in section 103 of the act (31 P. S. § 700j-103) **[are incorporated by reference]** have the meanings given to them in that section, unless the context clearly indicates otherwise.

§ 150.2. License year; certification year.

(a) The license year for milk dealers, subdealers and milk haulers is the period beginning on July 1 of a given year and ending on June 30 of the succeeding year.

(b) The certification year for milk testers and milk weighers and samplers is a calendar year.

LICENSE FEES OF MILK DEALERS

§ 150.11. [Annual fixed fee] Fixed fees.

(a) [A milk dealer shall pay to the Board an annual fixed fee of \$50.

(b) A milk dealer who is not engaged in the milk business on July 1] A new applicant for a milk dealer's license shall pay a fee of \$100 for a license issued on or after July 1 but before October 1 of the same year or a proportionate fixed annual fee as follows:

(1) [For] Seventy-five dollars for a license issued on or after October 1 [,] but [prior to] before January 1 [, the fee is \$37.50] of the succeeding year.

(2) [For] Fifty dollars for a license issued on or after January 1 [,] but [prior to] before April 1 of the [succeeding] same year [, the fee is \$25].

(3) [For] Twenty-five dollars for a license issued on or after April 1 [,] but [prior to] before July 1 [, the fee is \$12.50] of the same year.

(b) An applicant for annual renewal of a milk dealer's license shall pay a fee of \$50.

§ 150.12. [Additional annual] Hundredweight fees.

(a) In addition to the annual [fixed] license renewal fee imposed under § 150.11(b) (relating to [annual] fixed [fee] fees), a milk dealer that was licensed for the entire calendar year preceding license renewal shall pay [to the Board a] an annual hundredweight fee [equal to the sum of :] 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 [\$.035] \$.055 per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price [,] that is not included under paragraph (1) and that the milk dealer received [, produced] or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is [\$.005] \$.0064 per hundredweight.

(b) [A] In addition to the annual license renewal fee imposed under § 150.11(b), a milk dealer [who did not hold a milk dealer's license] that was not licensed for the [complete preceding] entire calendar year preceding license renewal shall pay [on a monthly basis, in addition to the fee imposed under § 150.11,] a monthly hundredweight fee [equal to the sum of :] 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 for which the license was issued, the fee is [\$.035] \$.055 per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price that is not included under paragraph (1) and that the milk dealer received [, produced] or brought into this Commonwealth during the preceding month for which the license is issued, the fee is [\$.005] \$.0064 per hundredweight.

(c) [The payments required under subsection (b) shall continue until the milk dealer has been engaged in the milk business for a full year, at which time the Board will establish a license fee based upon this section, § 150.11 and § 150.13 (relating to time for payment of fees).] In computing hundredweight fees under subsections (a) and (b), the Board will ascertain and fix the fluid milk equivalent of milk other than fluid milk by dividing the pounds of butterfat in cream by 3.5 and the pounds of nonfat solids in condensed and concentrated milk by 8.8. For farm-separated sour cream used exclusively in making butter to be marketed or ultimately sold as such, the Board will compute the total quantity of milk based on pounds of butterfat or sour cream rather than on the fluid milk equivalent.

(d) Milk purchased by a milk dealer located in or outside this Commonwealth from an out-of-State producer, which milk was diverted to an out-of-State milk dealer, is not subject to a hundredweight fee. As used in this subsection, "diverted" means that the purchasing milk dealer took possession of producer milk at the farm, from which location it was delivered to another milk dealer without entering the purchasing milk dealer's plant.

§ 150.13. Time for payment of fees.

(a) [An] A new applicant [seeking] for a milk dealer's license shall pay the fee imposed under § 150.11(a) (relating to [annual] fixed [fee] fees) [at the time] when the applicant submits the license application [is filed with] form provided by the Board.

(b) An applicant [seeking] for renewal of a milk dealer's license shall pay the [fee] fees imposed under § 150.11(b) and § 150.12(a) (relating to [additional annual] hundredweight fees) [at the time] when the applicant submits the license renewal application [is filed with] form provided by the Board. Fees exceeding \$2,000 may be paid in four substantially equal installments, the first to be submitted with the license renewal application form and the remaining three to be received in the Board office on or before September 15, December 15 and March 15, respectively, or the next business day if the 15th falls on a day when Commonwealth offices are closed.

(c) [Notwithstanding the provisions of subsection (b), an applicant seeking renewal of a dealer's license may pay the fee imposed under §§ 150.11 and 150.12 in four equal payments if the total fee imposed exceeds \$2,000. The first payment shall be submitted at the time the renewal application is filed with the Board. The remaining three payments must be received by the Board on or before September 15, December 15 and March 15 respectively. A milk dealer who elects to pay the license fee in installments shall be deemed to be un-

censed if an installment is not received by the Board within the time specified.] An applicant for renewal of a milk dealer's license subject to § 150.12(b) shall pay the fee imposed under § 150.11(b) when the applicant submits the license renewal application form provided by the Board and shall submit the monthly hundredweight fee with the report milk dealers shall file under § 147.10 (relating to monthly reports).

LICENSE FEES OF [MILK] SUBDEALERS

§ 150.21. Fixed [fee] fees.

[A milk subdealer shall, as a condition of being issued a subdealer's license, or having a subdealer's license renewed, pay to the Board a fee of \$5.] (a) A new applicant for a subdealer's license shall pay a fee of \$50 for a license issued on or after July 1 but before October 1 of the same year or a proportionate fee as follows.

(1) Thirty-seven dollars and fifty cents for a license issued on or after October 1 but before January 1 of the succeeding year.

(2) Twenty-five dollars for a license issued on or after January 1 but before April 1 of the same year.

(3) Twelve dollars and fifty cents for a license issued on or after April 1 but before July 1 of the same year.

(b) An applicant for annual renewal of a subdealer's license shall pay a fee of \$25.

§ 150.22. [Per hundredweight] Quart-equivalent fee.

(a) In addition to the [fixed] annual license renewal fee [in] imposed under § 150.21(b) (relating to fixed [fee] fees), a subdealer shall pay [, on] an annual [basis, a] fee [on milk on which the Board sets prices as set forth in § 150.12(a) (relating to additional annual fees)] calculated by dividing the total quarts of milk purchased during the previous calendar year by the number of months in which the subdealer engaged in business. The [additional] Board will assess the fee [shall be assessed] in accordance with the following schedule:

	<i>[Per License]</i>	<i>[Per License]</i>
<i>[Ave] Avg. Qts. Purchased</i>	<i>[Per] per</i>	<i>Annual Fee</i>
<i>Month</i>		
* * * * *		

(b) [In calculating the fees in this section] As used in subsection (a), [the term "quart"] "quarts" means the total volume of milk [purchased] for which the Board sets a wholesale price expressed in quart equivalents.

§ 150.23. Time for payment of fees.

[The fees in §§ 150.21 and 150.22 (relating to fixed fee; and per hundredweight fee) shall be paid to the Board at the same time the subdealer submits an application for a license, on or before June 15th of each year.]

(a) A new applicant for a subdealer's license shall pay the fee imposed under § 150.21(a) (relating to

fixed fees) when the applicant submits the license application form provided by the Board.

(b) An applicant for renewal of a subdealer's license shall pay the fees imposed under § 150.21(b) and § 150.22 (relating to quart-equivalent fee) when the applicant submits the license renewal application form provided by the Board.

[COMPUTATIONS OF LICENSE FEES]

§ 150.41. [Out-of-State sales] (Reserved).

[(a) Milk sold and distributed outside of this Commonwealth in a state which charges milk dealers or handlers a license fee may be deducted in the determination of the amount of the license fee required by this chapter, on the condition, that the quantity of milk is actually computed in determining the amount of the license fee in the other state.

(b) In computing the license fee to be charged by the Board, the fluid milk equivalent of milk other than fluid milk, shall be ascertained and fixed in a manner the Board prescribes. In the case of farm-separated sour cream used exclusively in making butter to be marketed or ultimately sold as such, the total quantity of the milk shall be computed according to pounds of butterfat or sour cream rather than the fluid milk equivalent thereof.

(c) Nothing in this section requires, in the computation of the license fee, the inclusion of milk which is received by the applicant milk dealer or handler from another milk dealer or handler, subject to license under this chapter, which milk has been included in the computation of the other dealer's fee or milk which is produced by the applicant dealer or handler and not sold by him to stores or consumers.]

§ 150.42. [Exemptions] (Reserved).

[In the computation of a license fee, the fee will not include an amount of nonprice controlled products sold from one licensed dealer to another licensed dealer or subdealer on which the fees in §§ 150.11—150.13 and 150.21—150.23 (relating to license fees of milk dealers; and license fees of milk subdealers) have been paid by the selling dealer.]

LICENSE FEES OF MILK HAULERS

§ 150.51. Fixed [fee] fees.

A [milk hauler shall, as a condition of being issued a milk hauler's license, or having a milk hauler's license renewed,] new applicant for a milk hauler's license and an applicant for annual renewal of a milk hauler's license shall pay [to the Board] a fee of \$30.

§ 150.52. [Per hundredweight] Hundredweight fee.

In addition to the [fixed] annual license fee [in] imposed under § 150.51 (relating to fixed [fee] fees), a [licensed] milk hauler shall pay [the sum of \$.0025 per hundredweight on milk hauled, during the licensing year July 1, 1989 to June 30, 1990, and \$.005 per hundredweight on milk hauled during the licensing year July 1, 1990 to June 30, 1991 and each licensing year thereafter] a fee of \$.005 per

hundredweight for milk hauled during the license year. [These fees] The fee shall [be computed as follows] apply to:

(1) [Milk picked up at a producer's farm located outside of this Commonwealth and delivered to a dealer or handler located within this Commonwealth.] Milk picked up at a producer's farm located in this Commonwealth and delivered to a milk dealer located in this Commonwealth.

(2) [Milk picked up at a producer's farm located within this Commonwealth and delivered to a dealer or handler located within or outside this Commonwealth.] Milk picked up at a producer's farm located outside this Commonwealth and delivered to a milk dealer located in this Commonwealth.

(3) Milk picked up at a producer's farm located in this Commonwealth and delivered to a milk dealer located outside this Commonwealth.

§ 150.53. Time for and manner of payment of [fee] fees.

(a) [The fee set forth in § 150.51 (relating to fixed fee) shall be paid to the Board at the same time the milk hauler submits his application for a license, on or before June 15th of each year.] A new applicant for a milk hauler's license and an applicant for renewal of a milk hauler's license shall pay the fee imposed under § 150.51 (relating to fixed fees) when the applicant files the application form provided by the Board.

(b) Payment of the [per] hundredweight fee shall be remitted by a licensed milk hauler in full to be received in the office of the Board by the 30th day of the month immediately succeeding the month in which the milk was hauled or the nearest business day thereafter (March 1 for January reports). The payment shall accompany the milk hauler's monthly report, Form PMMB-79, which is also due on that date.

[LICENSE] CERTIFICATION FEES OF MILK TESTERS

§ 150.61. [Fee for certificate of proficiency in milk testing] Examination fee.

[(a) A person desiring to take the examination prescribed by the Board to obtain a certificate of proficiency in milk testing shall pay to the Board a fee of \$25. This fee shall be paid at the same time the examination is taken.] The fee to take the Board-approved examination for a certificate of proficiency in milk testing is \$25, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees in § 150.62 (relating to fixed fees for new and renewed certificates).

[(b) This fee is not refundable and is not applied toward the payment of the annual milk tester's license fee.]

§ 150.62. [Annual fee] Fixed fees for [milk testers] new and renewed certificates.

[(a) A licensed milk tester shall, as a condition of being issued a milk tester's license, or having a milk tester's license renewed, pay to the Board a

fee of \$20.] A new applicant for a milk tester's certificate and an applicant for renewal of a milk tester's certificate shall pay a fee of \$20, which shall accompany the application form provided by the Board.

[(b) This fee shall be paid to the Board at the same time the milk tester submits his application for a license, on or before December 1st of each year.]

[LICENSE] CERTIFICATION FEES OF MILK
WEIGHERS AND SAMPLERS

§ 150.71. [Fee for certificate of proficiency in milk weighing and sampling] Examination fee.

[(a) A person desiring to take the examination prescribed by the Board to obtain a certificate of proficiency in milk weighing and sampling shall pay to the Board a fee of \$15. The fee shall be paid at the same time the examination is taken.] The fee to take the Board-approved examination for a certificate of proficiency in milk weighing and sampling is \$25, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees in § 150.72 (relating to fixed fees for new and renewed certificates).

[(b) This fee is not refundable and is not applied toward the payment of the annual milk weigher and sampler's license fee.]

§ 150.72. [Annual fee] Fixed fees for [milk weighers and samplers] new and renewed certificates.

[(a) A licensed weigher and sampler shall, as a condition of being issued a weigher and sampler's

license, or having a weigher and sampler's license renewed, pay to the Board a fee of \$15.] A new applicant for a milk weigher and sampler's certificate and an applicant for renewal of a milk weigher and sampler's certificate shall pay a fee of \$20, which shall accompany the application form provided by the Board.

[(b) The fee shall be paid to the Board at the same time the weigher and sampler submits his application for a license, on or before December 1st of each year.]

OTHER FEES

§ 150.81. Transfer [fees] fee.

The fee [for the] to transfer [of] a license [from one licensed milk dealer to another licensed milk dealer] under section 407 of the act (31 P. S. § 700j-407) is [\$10] \$50[, payable to the Board at the time of transfer].

§ 150.82. [Miscellaneous fees] Fees for copying and certifying Board documents.

[The Board shall charge and collect fees] Fees for providing copies of, or for certification of, [papers, testimony and records. The fee shall be collected from the persons requesting the documents or certification and shall] Board documents will be in an amount that will fully offset the costs incurred by the Board in providing the documents or certification.

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