§ 1001.7 Pool plant.

Pool plant means a plant, unit of plants, or system of plants as specified in paragraphs (a) through (f) of this section, but excluding a plant described in paragraph (h) of this section. The pooling standards described in paragraphs (c) and (f) of this section are subject to modification pursuant to paragraph (g) of this section.

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal milk order, from which during the month 25 percent or more of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition and are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area.

(b) Any distributing plant located in the marketing area or outside Maine or West Virginia that qualifies as a unit by meeting the total and in-area route distribution requirements specified in paragraph (a) of this section subject to the following additional requirements:

(1) During the months of August and December, such shipments must equal not less than 10 percent of the total quantity of milk that is received at the plant or diverted from it pursuant to § 1001.13 during the month.

(2) During the months of September through November, such shipments must equal not less than 20 percent of the total quantity of milk that is received at the plant or diverted from it pursuant to § 1001.13 during the month.

(3) A plant which meets the shipping requirements of this paragraph during each of the months of August through December shall be a pool plant during the following months of January through July unless the milk received at the plant fails to meet the requirements of a duly constituted regulatory agency, the plant fails to meet a shipping requirement referred to in paragraph (f) of this section, or the plant operator requests nonpool status for the plant. The shipping requirement for any plant which has not met the requirements of paragraphs (c)(1) and (c)(2) of this section must equal not less than 10 percent of the total quantity of milk that is received at the plant or diverted from it pursuant to § 1001.13 during each of the months of January through July in order for the plant to be a pool plant in each of those months;

(4) If milk is delivered directly from producers’ farms that are located outside of the states included in the marketing area or outside Maine or West Virginia, such milk must be grouped by state into reporting units and each reporting unit must independently meet the shipping requirements of this paragraph; and

(5) Concentrated milk transferred from the supply plant to a distributing plant for an agreed-upon use other than Class I shall be excluded from the supply plant’s shipments in computing the percentages in paragraphs (c)(1) and (2) of this section.

(d) [Reserved]

(e) Two or more plants that are located in the marketing area and operated by the same handler may qualify as a unit by meeting the total and in-area route distribution requirements specified in paragraph (a) of this section subject to the following additional requirements:

(1) At least one of the plants in the unit qualifies as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit; and

(3) A written request to form a unit, or to add or remove plants from a unit, or to cancel a unit, must be filed with the market administrator prior to the first day of the month for which unit formation is to be effective.

(f) Two or more supply plants operated by the same handler, or by one or more cooperative associations, may qualify for pooling as a system of plants by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant subject to the following additional requirements:

(1) A supply plant system will form a list, and continuing in this sequence made are insufficient to qualify the last listed plant shall be excluded from the system, followed by the plant next-to-last on the list, and continuing in this sequence until remaining listed plants have met the minimum shipping requirements; and

(2) Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system through the following July unless the plant subsequently fails to qualify for pooling, the handler submits a written notification to the market administrator prior to the first day of the month that the plant be deleted from the system, or that the system be discontinued. Any plant that has been so deleted from the system, or that has failed to qualify as a pool plant in any month, will not be part of the system for the remaining months through July. For any system that qualifies in August, no plant may be added in any subsequent month through the following July unless the plant replaces another plant in the system that has ceased operations or the market administrator is notified of such replacement prior to the first day of the month for which it is to be effective.

(g) The applicable shipping percentages of paragraphs (c) and (f) of this section may be increased or decreased by the market administrator if the market administrator finds that adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator’s own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that such a finding is warranted, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

(h) The term pool plant shall not apply to the following plants:
(1) A producer-handler plant;

(2) An exempt plant as defined in §1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section that is located within the marketing area if the plant meets the pooling requirements of another Federal order and has more than 50 percent of its route distribution been in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area that meets the pooling requirements of another Federal order and has greater route disposition in such other Federal order's marketing area for 3 consecutive months;

(5) A plant qualified pursuant to paragraph (a) of this section that is located in another Federal order marketing area if the plant meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a pool plant designated as a "nonpool plant" that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in writing by the handler and must be approved by the market administrator.

§1001.8 Nonpool plant.

See §1000.8.

§1001.9 Handler.

See §1000.9.

§1001.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in the marketing area during the month;

(b) Receives milk solely from own farm production or receives milk that is fully subject to the pricing and pooling provisions of this or any other Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month;

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing and packaging operations are the producer-handler's own enterprise and at its own risk.

§1001.11 [Reserved]

§1001.12 Producer.

(a) Except as provided in paragraph (b) of this section, producer means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator to another pool plant pursuant to §1001.13(d);

(2) Received by a handler described in §1000.9(c) in excess of the quantity reported by the handler during the month in which it is picked up at the farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by the operator of a pool plant or by a cooperative association handler described in §1000.9(c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under this order or any other Federal milk order, during the same month.

§1001.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or from a handler described in §1000.9(c). Any milk which is picked up from the producer's farm in a tank truck under the control of the operator of a pool plant or a handler described in §1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by the operator of a pool plant or a handler described in §1000.9(c) in excess of the quantity delivered to pool plants subject to the following conditions:

(1) The producers whose farms are outside of the states included in the marketing area and outside the states of Maine or West Virginia shall be organized into state units and each such unit shall be reported separately; and

(2) For pooling purposes, each reporting unit must satisfy the shipping standards specified for a supply plant pursuant to §1001.7(c);

(c) Diverted by a proprietary pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or by a handler described in §1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless milk of
such dairy farmer was physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer’s milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant; and
(2) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1001.14 Other source milk.
See § 1000.14.

§ 1001.15 Fluid milk product.
See § 1000.15.

§ 1001.16 Fluid cream product.
See § 1000.16.

§ 1001.17 [Reserved]
See § 1000.18.

§ 1001.18 Cooperative association.
See § 1000.18.

§ 1001.19 Commercial food processing establishment.
See § 1000.19.

Handler Reports

§ 1001.30 Reports of receipts and utilization.
Each handler shall report monthly so that the market administrator’s office receives the report on or before the 9th day after the end of the month, in the detail and on prescribed forms, as follows:
(a) Each pool plant operator shall report for each of its operations the following information:
(1) Product pounds, pounds of butterfat, pounds of protein, and pounds of nonfat solids other than protein (other solids) contained in or represented by:
(i) Receipts of producer milk,
(ii) Receipts of milk from handlers described in § 1000.9(c);
(iii) Receipts of milk from handlers described in § 1000.9(c); and
(iv) Receipts of milk from handlers described in § 1000.9(c);
(2) Product pounds and pounds of butterfat contained in:
(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;
(ii) Receipts of other source milk; and
(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;
(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and
(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and other nonfat solids as the market administrator may prescribe.
(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.
(c) Each handler described in § 1000.9(c) shall report:
(1) The product pounds, pounds of butterfat, pounds of protein, and the pounds of solids-not-fat other than protein (other solids) contained in receipts of milk from producers; and
(2) The utilization or disposition of such receipts.
(d) Each handler not specified in paragraph (a) or (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1001.31 Payroll reports.
(a) On or before the 22nd day after the end of each month, each handler that operates a pool plant pursuant to § 1001.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1001.73(e).
(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1001.32 Other reports.
In addition to the reports required pursuant to §§ 1001.30 and 1001.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler’s obligation under the order.

Classification of Milk

§ 1001.40 Classes of utilization.
See § 1000.40.
fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Class I value.
(1) Multiply the pounds of skim milk in Class I by the Class I skim milk price; and
(2) Add an amount obtained by multiplying the pounds of butterfat in Class I by the Class I butterfat price.
(b) Class II value.
(1) Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price; and
(2) Add an amount obtained by multiplying the pounds of butterfat in Class II times the Class II butterfat price.
(c) Class III value.
(1) Multiply the pounds of protein in Class III skim milk by the protein price;
(2) Add an amount obtained by multiplying the pounds of other solids in Class III skim milk by the other solids price; and
(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.
(d) Class IV value.
(1) Multiply the pounds of nonfat solids in Class IV skim milk by the nonfat solids price; and
(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

(e) Multiply the pounds of skim milk and butterfat overage assigned to each

(f) Multiply the difference between the current month’s Class I, II, or III price, as the case may be, and the Class IV price for the preceding month by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b).

(g) Multiply the difference between the Class I price applicable at the

(h) Multiply the difference between the Class I price applicable at the

§ 1001.61 Computation of producer price differential.

For each month, the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1001.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1001.60 for all handlers required to file reports prescribed in § 1001.30;
(b) Subtract the total of the values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1001.60 by the protein price, other solids price, and the butterfat price, respectively;
(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1001.75;
(d) A difference equal to not less than one-half of the unobligated balance in the producer-settlement fund;
(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and
(2) The total hundredweight for which a value is computed pursuant to § 1001.60(h); and
(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the producer price differential for the month.

§ 1001.62 Announcement of producer prices.

On or before the 13th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The producer price differential;
(b) The protein price;
(c) The nonfat solids price;
(d) The other solids price;
(e) The butterfat price;
(f) The average butterfat, protein, nonfat solids, and other solids content of producer milk; and
(g) The statistical uniform price for milk containing 3.5 percent butterfat computed by combining the Class III price and the producer price differential.

§ 1001.70 Producer-settlement fund.

See § 1000.70.

§ 1001.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 15th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1001.60.
(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1001.75;
(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively; and
§ 1001.72 Payments from the producer-settlement fund.

No later than the 16th day after the end of each month (except as provided in § 1000.90), the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1001.71(b) exceeds the amount computed pursuant to § 1001.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1001.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month at not less than the lowest announced class price for the preceding month.

(2) Final payment. For milk received during the month, payment shall be made so that it is received by each producer no later than the day after the payment date required in § 1001.72 in an amount computed as follows:

(i) Multiply the hundredweight of producer milk received by the producer price differential for the month as adjusted pursuant to § 1001.75;

(ii) Multiply the pounds of butterfat received by the butterfat price for the month;

(iii) Multiply the pounds of protein received by the protein price for the month;

(iv) Multiply the pounds of other solids received by the other solids price for the month; and

(v) Add the amounts computed in paragraphs (a)(2)(i) through (iv) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association for milk transferred from its pool plant.

For bulk milk/skimmed milk received directly from producers’ farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by the lowest announced class price for the preceding month.

(2) Partial payment to a cooperative association for milk transferred from its pool plant.

For bulk milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator’s estimated value of the milk using the most recent class prices available at the receiving plant’s location.

(3) Final payment to a cooperative association for milk transferred from its pool plant.

For bulk milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be determined as follows:

(i) Multiply the hundredweight of Class I skim milk by the Class I skim milk price for the month at the receiving plant;

(ii) Multiply the pounds of Class I butterfat by the butterfat price for the month at the receiving plant;

(iii) Multiply the pounds of protein by the protein price for the month;

(iv) Multiply the pounds of other solids in Class II skim milk by the Class II nonfat solids price;

(v) Multiply the pounds of nonfat solids in Class III milk by the nonfat solids price for the month;

(vi) Multiply the pounds of butterfat in Class III and IV milk by the butterfat price for the month;

(vii) Multiply the pounds of protein in Class III milk by the protein price for the month;

(viii) Multiply the pounds of other solids in Class III milk by the other solids price for the month; and

(ix) Add together the amounts computed in paragraphs (b)(3)(i) through (viii) of this section and from that sum deduct any payment made pursuant to paragraph (b)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1001.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identity or equivalent grade, and the payroll number of the producer;
§ 1005.74 [Reserved]

§ 1005.75 Plant location adjustments for producer milk and nonpool milk.

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in §1001.51 from the Class I price at the plant's location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§1001.73 and 1000.76.

§ 1005.76 Payments by a handler operating a partially regulated distributing plant.

See §1000.76.

§ 1005.77 Adjustment of accounts.

See §1000.77.

§ 1005.78 Charges on overdue accounts.

See §1000.78.

Administrative Assessment and Marketing Service Deduction

§ 1005.85 Assessment for order administration.

See §1000.85.

§ 1005.86 Deduction for marketing services.

See §1000.86.

PART 1005—MILK IN THE APPALACHIAN MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec. 1005.1 General provisions.

Definitions

1005.2 Appalachian marketing area.
1005.3 Route disposition.
1005.4 Plant.
1005.5 Distributing plant.
1005.6 Supply plant.
1005.7 Pool plant.
1005.8 Nonpool plant.
1005.9 Handler.
1005.10 Producer-handler.
1005.11 [Reserved]
1005.12 Producer.
1005.13 Producer milk.
1005.14 Other source milk.
1005.15 Fluid milk product.
1005.16 Fluid cream product.
1005.17 [Reserved]
1005.18 Cooperative association.
1005.19 Commercial food processing establishment.

Handler Reports

1005.30 Reports of receipts and utilization.
1005.31 Payroll reports.
1005.32 Other reports.

Classification of Milk

1005.40 Classes of utilization.
1005.41 [Reserved]
1005.42 Classification of transfers and diversions.
1005.43 General classification rules.
1005.44 Classification of producer milk.
1005.45 Market administrator's reports and announcements concerning classification.

Class Prices

1005.50 Class prices, component prices, and advanced pricing factors.
1005.51 Class I differential and price.
1005.52 Adjusted Class I differentials.
1005.53 Announcement of class prices, component prices, and advanced pricing factors.
1005.54 Equivalent price.

Uniform Prices

1005.60 Handler's value of milk.
1005.61 Computation of uniform prices.
1005.62 Announcement of uniform prices.

Payments for Milk

1005.70 Producer-settlement fund.
1005.71 Payments to the producer-settlement fund.
1005.72 Payments from the producer-settlement fund.
1005.73 Payments to producers and to cooperative associations.
1005.74 [Reserved]
1005.75 Plant location adjustments for producer milk and nonpool milk.
1005.76 Payments by a handler operating a partially regulated distributing plant.
1005.77 Adjustment of accounts.
1005.78 Charges on overdue accounts.

Marketwide Service Payments

1005.80 Transportation credit balancing fund.
1005.81 Payments to the transportation credit balancing fund.
1005.82 Payments from the transportation credit balancing fund.

Administrative Assessment and Marketing Service Deduction

1005.85 Assessment for order administration.
1005.86 Deduction for marketing services.

West Virginia Counties
McDowell and Mercer.

§ 1005.3 Route disposition. See § 1000.3.

§ 1005.4 Plant. See § 1000.4.

§ 1005.5 Distributing plant. See § 1000.5.

§ 1005.6 Supply plant. See § 1000.6.

§ 1005.7 Pool plant. Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (c) and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal order, from which during the month 50 percent or more of the fluid milk products received at such plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area.

(b) Any distributing plant located in the marketing area which during the month processed at least 50 percent of the total quantity of fluid milk products received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(c) A supply plant from which 50 percent or more of the total quantity of milk that is received during the month from dairy farmers and handlers described in § 1000.9(c), including milk that is diverted from the plant, is transferred to pool distributing plants. Concentrated milk transferred from the supply plant to a distributing plant for an agreed-upon use other than Class I shall be excluded from the supply plant's shipments in computing the plant's shipping percentage.

(d) A plant located within the marketing area or in the State of Virginia that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month at least 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product (excluding concentrated milk transferred to a distributing plant for an agreed-upon use other than Class I) from the cooperative's plant.

(e) Two or more plants operated by the same handler and that are located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

1. At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

2. Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section;

3. A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable shipping percentages of paragraphs (c) and (d) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

1. A producer-handler plant;

2. An exempt plant as defined in § 1000.8(e);

3. A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

4. A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area;

5. A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order; and

6. That portion of a pool plant designated as a “nonpool plant” that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in writing by the handler and must be approved by the market administrator.

§ 1005.8 Nonpool plant. See § 1000.8.

§ 1005.9 Handler. See § 1000.9.

§ 1005.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in the marketing area;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing and packaging operations are the producer-handler’s own enterprise and are operated at the producer-handler’s own risk.
§ 1005.11 [Reserved]

§ 1005.12 Producer.
(a) Except as provided in paragraph (b) of this section, producer means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:
(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1005.13; or
(2) Received by a handler described in § 1000.9(c).
(b) Producer shall not include:
(1) A producer-handler as defined in any Federal order;
(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1005.13(d);
(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and
(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1005.13 Producer milk.
Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:
(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;
(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;
(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or
(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:
(1) In any month of July through December, not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;
(2) In any month of January through June, not less than 2 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;
(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 25 percent during the months of July through November, January, and February, and 40 percent during the months of December and March through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;
(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 25 percent during the months of July through November, January, and February, and 40 percent during the months of December and March through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1005.7(d)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c);
(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;
(6) Diverted milk shall be priced at the location of the plant to which diverted; and
(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1005.14 Other source milk.
See § 1000.14.

§ 1005.15 Fluid milk product.
See § 1000.15.

§ 1005.16 Fluid cream product.
See § 1000.16.

§ 1005.17 [Reserved]

§ 1005.18 Cooperative association.
See § 1000.18.

§ 1005.19 Commercial food processing establishment.
See § 1000.19.

Handler Reports
§ 1005.30 Reports of receipts and utilization.
Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:
(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:
(1) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c);
(2) Receipts of milk from handlers described in § 1000.9(c);
(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;
(4) Receipts of other source milk;
(5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Order 1007, for which a transportation credit is requested pursuant to § 1005.82;
(6) Receipts of producer milk described in § 1005.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;
(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;
(8) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and
(9) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.
(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show...
also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in §1000.9(c) shall report:
(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;
(2) The utilization or disposition of all such receipts; and
(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to §1005.82, all of the information required in paragraphs (a)(5), (a)(6), and (a)(7) of this section.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§1005.31 Payroll reports.
(a) On or before the 20th day after the end of each month, each handler that operates a pool plant pursuant to §1005.7 and each handler described in §1000.9(c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in §1005.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to §1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§1005.32 Other reports.
(a) On or before the 20th day after the end of each month, each handler described in §1000.9(a) and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to §1005.30(a)(5), (6), and (7).

(b) In addition to the reports required pursuant to §§1005.30, 1005.31, and 1005.32(a), each handler shall report any information the market administrator deems necessary to verify or establish each handler’s obligation under the order.

Classification of Milk

§1005.40 Classes of utilization.
See §1000.40.

§1005.41 [Reserved]

§1005.42 Classification of transfers and diversions.
See §1000.42.

§1005.43 General classification rules.
See §1000.43.

§1005.44 Classification of producer milk.
See §1000.44.

§1005.45 Market administrator’s reports and announcements concerning classification.
See §1000.45.

§1005.50 Class prices, component prices, and advanced pricing factors.
See §1000.50.

§1005.51 Class I differential and price.
The Class I differential shall be the differential established for Mecklenburg County, North Carolina, which is reported in §1000.52. The Class I price shall be the price computed pursuant to §1000.50(a) for Mecklenburg County, North Carolina.

§1005.52 Adjusted Class I differentials.
See §1000.52.

§1005.53 Announcement of class prices, component prices, and advanced pricing factors.
See §1000.53.

§1005.54 Equivalent price.
See §1000.54.

Uniform Prices

§1005.60 Handler’s value of milk.
For the purpose of computing a handler’s obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler’s pool plants and of each handler described in §1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (e) of this section and subtracting from that total amount the value computed in paragraph (f) of this section. Receipts of nonfluid milk products that are distributed as labeled fluid milk products from unregulated supply plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Multiply the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to §1000.44(d) and §1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to §1000.44(a)(8) and the corresponding step of §1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(f) For reconstituted milk made from receipts of nonfluid milk products, multiply $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to §1000.43(d).

§1005.61 Computation of uniform prices.
On or before the 11th day of each month, the market administrator shall compute a uniform butterfat price, a uniform skim milk price, and a uniform price for producer milk receipts reported for the prior month. The report of any handler who has not made payments required pursuant to
§ 1005.71 for the preceding month shall not be included in the computation of these prices, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations.

(a) Uniform butterfat price. The uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be computed by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices and dividing the sum of such values by the total pounds of such butterfat.

(b) Uniform skim milk price. The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

(1) Combine into one total the values computed pursuant to § 1005.60 for all handlers;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1005.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract the value of the total pounds of butterfat for all handlers. The butterfat value shall be computed by multiplying the pounds of butterfat by the butterfat price computed in paragraph (a) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total skim pounds of producer milk; and

(ii) The total skim pounds for which a value is computed pursuant to § 1005.60(e); and

(6) Subtract not less than 4 cents and not more than 5 cents.

(c) Uniform price. The uniform price per hundredweight, rounded to the nearest cent, shall be the sum of the following:

(1) Multiply the uniform butterfat price for the month pursuant to paragraph (a) of this section times 3.5 pounds of butterfat; and

(2) Multiply the uniform skim milk price for the month pursuant to paragraph (b) of this section times 96.5 pounds of skim milk.

§ 1005.62 Announcement of uniform prices.

On or before the 11th day after the end of the month, the market administrator shall announce the uniform prices for the month computed pursuant to § 1005.61.

§ 1005.63 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The uniform price pursuant to § 1005.61 for such month;

(b) The uniform butterfat price pursuant to § 1005.61(b) for such month; and

(c) The uniform skim milk price pursuant to § 1005.61(c) for such month.

§ 1005.64 Payments to producers and to cooperative associations.

Each handler shall make a payment to the cooperative association for milk received as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month (except as provided in § 1000.78) and proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, a payment computed as follows shall be made so that it is received by each producer one day after the payment date required in § 1005.72:

(i) Multiply the uniform skim milk price received times the uniform skim milk price for the month;

(ii) Multiply the uniform butterfat price for the month;

(iii) Multiply the uniform skim milk price received times the uniform butterfat price for the month;

(iv) Subtract the proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the uniform skim milk price per pound, rounded to the nearest cent, times the total pounds of milk received as of the 23rd day of the month.

(2) Final payment to a cooperative association for milk transferred from its pool plant. For bulk milk products (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the uniform skim milk price per pound, rounded to the nearest cent, times the total pounds of milk received as of the 23rd day of the month.

§ 1005.65 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk of the handler for the month as determined pursuant to § 1005.60, and

(b) The sum of the value of the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler's receipts of producer milk; and the value at the uniform price, as adjusted pursuant to § 1005.75, applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1005.60(e).

§ 1005.66 Payments for milk.

No later than one day after the date of payment receipt required under § 1005.71, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1005.61(b) exceeds the amount computed pursuant to § 1005.61(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1005.67 Payments to producers and to cooperative associations.

Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) Payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the uniform skim milk price per pound, rounded to the nearest cent, times the total pounds of milk received as of the 23rd day of the month.

(2) Payment to a cooperative association for milk transferred from its pool plant. For bulk milk products (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the uniform skim milk price per pound, rounded to the nearest cent, times the total pounds of milk received as of the 23rd day of the month.

§ 1005.70 Producer-settlement fund.

See § 1000.70.

§ 1005.71 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk of the handler for the month as determined pursuant to § 1005.60, and

(b) The sum of the value of the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler's receipts of producer milk; and the value at the uniform price, as adjusted pursuant to § 1005.75, applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1005.60(e).

§ 1005.72 Payments from the producer-settlement fund.

No later than one day after the date of payment receipt required under § 1005.71, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1005.71(b) exceeds the amount computed pursuant to § 1005.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1005.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) Payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the uniform skim milk price per pound, rounded to the nearest cent, times the total pounds of milk received as of the 23rd day of the month.

(2) Payment to a cooperative association for milk transferred from its pool plant. For bulk milk products (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the uniform skim milk price per pound, rounded to the nearest cent, times the total pounds of milk received as of the 23rd day of the month.

§ 1005.74 Payment for milk.

No later than one day after the date of payment receipt required under § 1005.71, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1005.72 exceeds the amount computed pursuant to § 1005.72(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1005.75 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk of the handler for the month as determined pursuant to § 1005.60, and

(b) The sum of the value of the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler's receipts of producer milk; and the value at the uniform price, as adjusted pursuant to § 1005.75, applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1005.60(e).
from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available for skim milk and butterfat at the receiving plant's location.

(3) Final payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of skim milk and butterfat assigned to each class pursuant to §1000.44 by the class prices for the month at the receiving plant's location, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) Final payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to §1005.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment.

The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association described in §1005.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;
(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;
(3) The total pounds of butterfat in the producer's milk;
(4) The minimum rate or rates at which payment to the producer is required pursuant to this order;
(5) The rate used in making payment if the rate is other than the applicable minimum rate;
(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and
(7) The net amount of payment to the producer or cooperative association.

§1005.74 [Reserved]

§1005.75 Plant location adjustments for producer milk and nonpool milk.

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in §1005.50 from the Class I price at the plant's location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§1005.73 and 1000.76.

§1005.76 Payments by a handler operating a partially regulated distributing plant.

See §1000.76.

§1005.77 Adjustment of accounts.

See §1000.77.

§1005.78 Charges on overdue accounts.

See §1000.78.

Markwide Service Payments

§1005.80 Transportation credit balancing fund.

The market administrator shall maintain a separate fund known as the Transportation Credit Balancing Fund into which shall be deposited the payments made by handlers pursuant to §1005.81 and out of which shall be made the payments due handlers pursuant to §1005.82. Payments due a handler shall be offset against payments due from the handler.

§1005.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month (except as provided in §1000.90), each handler operating a pool plant and each handler specified in §1000.9(c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to §1005.44 by $0.065 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June-January period. In the event that during any month of the June-January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month (except as provided in §1000.90) the assessment pursuant to paragraph (a) of this section for the following month.

§1005.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day (except as provided in §1000.90) after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to §1005.30(a)(5), bulk milk transferred from a plant fully regulated under another Federal order as described in paragraph (c)(1) of this section or that received, and reported pursuant to §1005.30(a)(6), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments pro rata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits...
resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section.

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1005.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month.

(3) Transportation credits paid pursuant to paragraphs (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section.

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1005.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Order 1007, and allocated to Class I milk pursuant to § 1000.44(a)(9); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1000.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1000.44;

(ii) The dairy farmer was not a “producer” under this order during more than 2 of the immediately preceding months of February through May and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing area of Federal Order 1007.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c)(1) and (2) of this section the pounds of bulk milk produced from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset.

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(iv) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the thousandweight of milk described in paragraph (d)(2) of this section.

(3) For the remaining milk described in paragraph (c)(2) of this section after computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer’s farm from which milk was picked up for delivery to the receiving pool plant;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the origination point;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) Subtract the Class I differential specified in § 1000.52 applicable for the county in which the origination point is located from the Class I differential applicable at the receiving pool plant’s location;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) of this section by the thousandweight of milk described in paragraph (d)(3) of this section.

Administrative Assessment and Marketing Service Deduction

§ 1005.85 Assessment for order administration.

See § 1000.85.

§ 1005.86 Deduction for marketing services.

See § 1000.86.

PART 1006—MILK IN THE FLORIDA MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.

1006.1 General provisions.

Definitions

1006.2 Florida marketing area.

1006.3 Route disposition.

1006.4 Plant.

1006.5 Distributing plant.

1006.6 Supply plant.

1006.7 Pool plant.

1006.8 Nonpool plant.
1006.9 Handler.
1006.10 Producer-handler.
1006.11 [Reserved]
1006.12 Producer.
1006.13 Producer milk.
1006.14 Other source milk.
1006.15 Fluid milk product.
1006.16 Fluid cream product.
1006.17 [Reserved]
1006.18 Cooperative association.
1006.19 Commercial food processing establishment.

**Definitions**

**§ 1006.2 Florida marketing area.**

The marketing area means all the territory within the State of Florida, except the counties of Escambia, Okaloosa, Santa Rosa, and Walton, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions.

**§ 1006.3 Route disposition.**

See § 1000.3.

**§ 1006.4 Plant.**

See § 1000.4.

**§ 1006.5 Distributing plant.**

See § 1000.5.

**§ 1006.6 Supply plant.**

See § 1000.6.

**§ 1006.7 Pool plant.**

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (c) and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal milk order, from which during the month 50 percent or more of the fluid milk products received at such plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of or transferred to such plants as a fluid milk product (excluding concentrated milk transferred to a distributing plant for an agreed-upon use other than Class I) from the cooperative's plant.

(b) Any distributing plant located in the marketing area which during the month processed at least 50 percent of the total quantity of fluid milk products received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(c) A supply plant from which 60 percent or more of the total quantity of milk that is received during the month from dairy farmers and handlers described in § 1000.9(c), including milk that is diverted from the plant, is transferred to pool distributing plants. Concentrated milk transferred from the supply plant to a distributing plant for an agreed-upon use other than Class I shall be excluded from the supply plant's shipments in computing the plant's shipping percentage.

(d) A plant located within the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product (excluding concentrated milk transferred to a distributing plant for an agreed-upon use other than Class I) from the cooperative's plant.

(e) Two or more plants operated by the same handler and that are located within the marketing area which may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable shipping percentages of paragraphs (c) and (d) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator...
shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in §1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(5) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order.

§1006.8 Nonpool plant.

See §1000.8.

§1006.9 Handler.

See §1000.9.

§1006.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in the marketing area;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production; and

(d) Proves the proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing and packaging operations, are the producer-handler's own enterprise and are operated at the producer-handler's own risk.

§1006.11 [Reserved]

§1006.12 Producer.

(a) Except as provided in paragraph (b) of this section, producer means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with §1006.13; or

(2) Received by a handler described in §1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to §1006.13(d); and

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§1006.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in §1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in §1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in §1000.9(c) to a nonpool plant, subject to the following:

(1) In any month, not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) The total quantity of milk so diverted during the month by the cooperative association shall not exceed 20 percent during the months of July through November, 25 percent during the months of December through February, and 40 percent during all other months, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 20 percent during the months of July through November, 25 percent during the months of December through February, and 40 percent during all other months, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to §1006.7(d)) during the month, excluding the quantity of producer milk received from a handler described in §1000.9(c);

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(5) Diverted milk shall be priced at the location of the plant to which diverted; and

(6) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (3) of this section may be increased or decreased by the market administrator in the case of plants that pool as a unit if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.
§ 1000.14 Other source milk.
See § 1000.14.

§ 1000.15 Fluid milk product.
See § 1000.15.

§ 1000.16 Fluid cream product.
See § 1000.16.

§ 1000.17 [Reserved]

§ 1000.18 Cooperative association.
See § 1000.18.

§ 1000.19 Commercial food processing establishment.
See § 1000.19.

Handler Reports

§ 1006.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator’s office receive such report or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its milk plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c);

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(6) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1006.32 Other reports.

In addition to the reports required pursuant to §§ 1006.30 and 1006.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler’s obligation under the order.

Classification of Milk

§ 1006.40 Classes of utilization.
See § 1000.40.

§ 1006.41 [Reserved]

§ 1006.42 Classification of transfers and diversions.
See § 1000.42.

§ 1006.43 General classification rules.
See § 1000.43.

§ 1006.44 Classification of producer milk.
See § 1000.44.

§ 1006.45 Market administrator’s reports and announcements concerning classification.
See § 1000.45.

Class Prices

§ 1006.50 Class prices, component prices, and advanced pricing factors.
See § 1000.50.

§ 1006.51 Class I differential and price.
The Class I differential shall be the differential established for Hillsborough County, Florida, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Hillsborough County, Florida.

§ 1006.52 Adjusted Class I differentials.
See § 1000.52.

§ 1006.53 Announcement of class prices, component prices, and advanced pricing factors.
See § 1000.53.

§ 1006.54 Equivalent price.
See § 1000.54.

Uniform Prices

§ 1006.60 Handler’s value of milk.

For the purpose of computing a handler’s obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler’s pool plants and of each handler described in § 1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (e) of this section and subtracting from that total amount the value computed in paragraph (f) of this section. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts;

(b) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Multiply the difference between the Class IV price for the preceding month and the current month’s Class I, II, or III price, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Multiply the Class I price applicable at the location of the nearest unregulated supply plant from which an equivalent volume was received by the pounds of skim milk and butterfat
in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and
(f) For reconstituted milk made from receipts of nonfluid milk products, multiply $1.00 (but not more than the difference between the Class I price applicable at the location of the plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d).

§ 1006.61 Computation of uniform prices.

On or before the 11th day of each month, the market administrator shall compute a uniform butterfat price, a uniform skim milk price, and a uniform butterfat price per pound, rounded to the nearest one-hundredth cent, for the month as determined by the market administrator as provided in § 1000.21, and the value at the uniform prices, as provided in § 1006.60; and
(i) The total skim pounds of producer milk; and
(ii) The total pounds of butterfat for which a value is computed pursuant to § 1006.60(e); and
(6) Subtract not less than 4 cents and not more than 5 cents.
(c) Uniform price. The uniform price per hundredweight, rounded to the nearest cent, shall be the sum of the following:
(1) Multiply the uniform butterfat price for the month pursuant to paragraph (a) of this section times 3.5 pounds of butterfat; and
(2) Multiply the uniform skim milk price for the month pursuant to paragraph (b) of this section times 96.5 pounds of skim milk.

§ 1006.62 Announcement of uniform prices.

On or before the 11th day after the end of the month, the market administrator shall announce the uniform prices for the month computed pursuant to § 1006.61.

§ 1006.70 Producer-settlement fund.

See § 1000.70.

§ 1006.71 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:
(a) The total value of milk of the handler for the month as determined pursuant to § 1006.60; and
(b) The sum of the value at the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler’s receipts of producer milk; and the value at the uniform price, as adjusted pursuant to § 1006.75, applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1006.60(e).

§ 1006.72 Payments from the producer-settlement fund.

No later than one day after the date of payment receipt required under § 1006.71, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1006.71(b) exceeds the amount computed pursuant to § 1006.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1006.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:
(i) Partial payments. (i) For each producer who has not discontinued shipments as of the 15th day of the month, payment shall be made so that it is received by the producer on or before the 20th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month at not less than 85 percent of the preceding month’s uniform price, adjusted for plant location pursuant to § 1006.75 and proper deductions authorized in writing by the producer; and
(ii) For each producer who has not discontinued shipments as of the last day of the month, payment shall be made so that it is received by the producer on or before the 5th day of the following month (except as provided in § 1000.90) for milk received before the 20th day of the month at not less than 85 percent of the preceding month’s uniform price, adjusted for plant location pursuant to § 1006.75 and proper deductions authorized in writing by the producer; and
(ii) Final payment. For milk received during the month, a payment computed as follows shall be made so that it is received by each producer one day after the payment date required in § 1006.72:
(i) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;
(ii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;
(iii) Subtract the amounts computed in paragraphs (a)(2)(i), (ii), and (iii) of this section, and from that sum:
(A) Subtract the partial payments made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk), the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1006.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1006.74 [Reserved]

§ 1006.75 Plant location adjustments for producer milk and nonpool milk.

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in § 1006.50 from the Class I price at the plant's location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§ 1006.73 and 1006.76.

§ 1006.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76.

§ 1006.77 Adjustment of accounts.

See § 1000.77.

§ 1006.78 Charges on overdue accounts.

See § 1000.78.

Administrative Assessment and Marketing Service Deduction

§ 1006.85 Assessment for order administration.

See § 1000.85.

§ 1006.86 Deduction for marketing services.

See § 1000.86.

PART 1007—MILK IN THE SOUTHEAST MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

See § 1007.1 General provisions.

Definitions

1007.2 Southeast marketing area.

1007.3 Route disposition.

1007.4 Plant.

1007.5 Distributing plant.

1007.6 Supply plant.

1007.7 Pool plant.

1007.8 Nonpool plant.

1007.9 Handler.

1007.10 Producer-handler.

1007.11 [Reserved]

1007.12 Producer.

1007.13 Producer milk.

1007.14 Other source milk.

1007.15 Fluid milk product.

1007.16 Fluid cream product.

1007.17 [Reserved]

1007.18 Cooperative association.

1007.19 Commercial food processing establishment.

Handler Reports

1007.30 Reports of receipts and utilization.

1007.31 Payroll reports.

1007.32 Other reports.

Classification of Milk

1007.40 Classes of utilization.

1007.41 [Reserved]
1007.42 Classification of transfers and diversions.
1007.43 General classification rules.
1007.44 Classification of producer milk.
1007.45 Market administrator’s reports and announcements concerning classification.

Class Prices
1007.50 Class prices, component prices, and advanced pricing factors.
1007.51 Class I differential and price.
1007.52 Adjusted Class I differentials.
1007.53 Announcement of class prices, component prices, and advanced pricing factors.
1007.54 Equivalent price.

Uniform Prices
1007.60 Handler’s value of milk.
1007.61 Computation of uniform prices.
1007.62 Announcement of uniform prices.

Payments for Milk
1007.70 Producer-settlement fund.
1007.71 Payments to the producer-settlement fund.
1007.72 Payments from the producer-settlement fund.
1007.73 Payments to producers and to cooperative associations.
1007.74 [Reserved]
1007.75 Plant location adjustments for producer milk and nonpool milk.
1007.76 Payments by a handler operating a partially regulated distributing plant.
1007.77 Adjustment of accounts.
1007.78 Charges on overdue accounts.

Marketwide Service Payments
1007.80 Transportation credit balancing fund.
1007.81 Payments to the transportation credit balancing fund.
1007.82 Payments from the transportation credit balancing fund.

Administrative Assessment and Marketing Service Deduction
1007.85 Assessment for order administration.
1007.86 Deduction for marketing services.


Subpart—Order Regulating Handling

General Provisions
§ 1007.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order. In this part 1007, all references to sections in part 1000 refer to part 1000 of this chapter.

Definitions
§ 1007.2 Southeast marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Alabama, Arkansas, Louisiana, and Mississippi.

Florida Counties
Escambia, Okaloosa, Santa Rosa, and Walton.

Georgia Counties
All of the State of Georgia except for the counties of Catoosa, Chattooga, Dade, Fannin, Murray, Walker, and Whitfield.

Kentucky Counties

Missouri Counties

Tennessee Counties
All of the State of Tennessee except for the counties of Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, and Washington.

§ 1007.3 Route disposition.

See § 1000.3.

§ 1007.4 Plant.

See § 1000.4.

§ 1007.5 Distributing plant.

See § 1000.5.

§ 1007.6 Supply plant.

See § 1000.6.

§ 1007.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (c) and (d) of this section are subject to modification pursuant to paragraph (f) of this section.

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal milk order, from which during the month 50 percent or more of the fluid milk products received at such plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area.

(b) Any distributing plant located in the marketing area which during the month processed at least 50 percent of the total quantity of fluid milk products received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(c) A supply plant from which 50 percent or more of the total quantity of milk that is received during the month from dairy farmers and handlers described in § 1000.9(c), including milk that is diverted from the plant, is transferred to pool distributing plants. Concentrated milk transferred from the supply plant to a distributing plant for an agreed-upon use other than Class I shall be excluded from the supply plant’s shipments in computing the plant’s shipping percentage.

(d) A plant located within the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month at least 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product (excluding concentrated milk transferred to a distributing plant for an agreed-upon use other than Class I) from the cooperative’s plant.

(e) Two or more plants operated by the same handler and located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit.
pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable shipping percentages of paragraphs (c) and (d) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator’s own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in §1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area; and

(5) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order.

§1007.8 Nonpool plant. See §1000.8.

§1007.9 Handler. See §1000.9.

§1007.10 Producer-handler. Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in the marketing area;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing and packaging operations, are the producer-handler’s own enterprise and are operated at the producer-handler’s own risk.

§1007.11 [Reserved]

§1007.12 Producer. (a) Except as provided in paragraph (b) of this section, producer means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with §1007.13; or

(2) Received by a handler described in §1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to §1007.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§1007.13 Producer milk. Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in §1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in §1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in §1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of January through June, not less than 4 days’ production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of July through December, not less than 10 days’ production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 33 percent during the months of July through December, and 50 percent during the months of January through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 33 percent during the months of July through December, or 50 percent during the months of January through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers’ deliveries that will not be producer milk, no milk
diverted by the handler or cooperative association shall be producer milk; (6) Diverted milk shall be priced at the location of the plant to which diverted; and (7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator’s own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1007.14 Other source milk.
See § 1000.14.

§ 1007.15 Fluid milk product.
See § 1000.15.

§ 1007.16 Fluid cream product.
See § 1000.16.

§ 1007.17 [Reserved]

§ 1007.18 Cooperative association.
See § 1000.18.

§ 1007.19 Commercial food processing establishment.
See § 1000.19.

**Handler Reports**

§ 1007.30 Reports of receipts and utilization.
Each handler shall report monthly so that the market administrator’s office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:
(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:
(1) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c); (2) Receipts of milk from handlers described in § 1000.9(c); (3) Receipts of fluid milk products and bulk fluid cream products from other pool plants; (4) Receipts of other source milk; (5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Order 1005, for which a transportation credit is requested pursuant to § 1007.82; (6) Receipts of producer milk described in § 1007.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received; (7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred; (8) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and
(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(8) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

§ 1007.31 Payroll reports.
(a) On or before the 20th day after the end of each month, each handler shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1007.32(a)(5), (6), and (7).
(b) In addition to the reports required pursuant to §§ 1007.30, 31, and 32(a), each handler shall report any information the market administrator deems necessary to verify or establish each handler’s obligation under the order.

**Classification of Milk**

§ 1007.40 Classes of utilization.
See § 1000.40.

§ 1007.41 [Reserved]

§ 1007.42 Classification of transfers and diversions.
See § 1000.42.

§ 1007.43 General classification rules.
See § 1000.43.

§ 1007.44 Classification of producer milk.
See § 1000.44.

§ 1007.45 Market administrator’s reports and announcements concerning classification.
See § 1000.45.

**Class Prices**

§ 1007.50 Class prices, component prices, and advanced pricing factors.
See § 1000.50.

§ 1007.51 Class I differential and price.
The Class I differential shall be the differential established for Fulton County, Georgia, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Fulton County, Georgia.

§ 1007.52 Adjusted Class I differentials.
See § 1000.52.

§ 1007.53 Announcement of class prices, component prices, and advanced pricing factors.
See § 1000.53.

§ 1007.54 Equivalent price.
See § 1000.54.

**Uniform Prices**

§ 1007.60 Handler’s value of milk.
For the purpose of computing a handler’s obligation for producer milk,
the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (e) of this section and subtracting from that total amount the value computed in paragraph (f) of this section. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1007.61(a)(4) or (d) shall be excluded from pricing under this section.

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts;

(b) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Multiply the difference between the Class IV price for the preceding month and the current month's Class I, II, or III price, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Multiply the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) by the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(f) For reconstituted milk made from receipts of nonfluid milk products, multiply $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d).

§ 1007.61 Computation of uniform prices.

On or before the 11th day of each month, the market administrator shall compute a uniform butterfat price, a uniform skim milk price, and a uniform price for producer milk receipts reported for the prior month. The report of any handler who has not made payments required pursuant to § 1007.71 for the preceding month shall not be included in the computation of these prices, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations.

(a) Uniform butterfat price. The uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be computed by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices and dividing the sum of such values by the total pounds of such butterfat.

(b) Uniform skim milk price. The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

(1) Combine into one total the values computed pursuant to § 1005.60 for all handlers;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1007.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract the value of the total pounds of butterfat for all handlers. The butterfat value shall be computed by multiplying the pounds of butterfat by the butterfat price computed in paragraph (a) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total skim pounds of producer milk; and

(ii) The total skim pounds for which a value is computed pursuant to § 1007.60(e); and

(6) Subtract not less than 4 cents and not more than 5 cents.

(c) Uniform price. The uniform price per hundredweight, rounded to the nearest cent, shall be the sum of the following:

(1) Multiply the uniform butterfat price for the month pursuant to paragraph (a) of this section times 3.5 pounds of butterfat; and

(2) Multiply the uniform skim milk price for the month pursuant to paragraph (b) of this section times 96.5 pounds of skim milk.

§ 1007.62 Announcement of uniform prices.

On or before the 11th day after the end of the month, the market administrator shall announce the uniform prices for the month computed pursuant to § 1007.61.

Payments for Milk

§ 1007.70 Producer-settlement fund.

See § 1000.70.

§ 1007.71 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk of the handler for the month as determined pursuant to § 1007.60; and

(b) The sum of the value at the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler's receipts of producer milk; and the value at the uniform price, as adjusted pursuant to § 1007.75, applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1007.60(e).

§ 1007.72 Payments from the producer-settlement fund.

No later than one day after the date of payment receipt required under § 1007.71, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1007.71(b) exceeds the amount computed pursuant to § 1007.71(a).

If, at such time, the balance
in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1007.73 Payments to producers and cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month at not less than 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1007.75 and proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, a payment computed as follows shall be made so that it is received by each producer one day after the payment date required in § 1007.72:

(i) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(ii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iii) Multiply the hundredweight of producer milk received times the plant location adjustment pursuant to § 1007.75; and

(iv) Add the amounts computed in paragraphs (a)(2)(i), (ii), and (iii) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1007.75;

(2) Partial payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available for skim milk and butterfat at the receiving plant's location.

(3) Final payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of skim milk and butterfat assigned to each class pursuant to § 1007.44 by the class prices for the month at the receiving plant's location, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) Final payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association described in § 1000.9(e) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1007.74 [Reserved]

§ 1007.75 Plant location adjustments for producer milk and nonpool milk.

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in § 1007.50 from the Class I price at the plant's location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§ 1007.73 and 1000.76.

§ 1007.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76.

§ 1007.77 Adjustment of accounts.

See § 1000.77.

§ 1007.78 Charges on overdue accounts.

See § 1000.78.
Marketwide Service Payments

§ 1007.80 Transportation credit balancing fund.

The market administrator shall maintain a separate fund known as the Transportation Credit Balancing Fund into which shall be deposited the payments made by handlers pursuant to § 1007.81 and out of which shall be made the payments due handlers pursuant to § 1007.82. Payments due a handler shall be offset against payments due from the handler.

§ 1007.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month (except as provided in § 1000.90), each handler operating a pool plant and each handler specified in § 1000.9(c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1000.44 by $0.07 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June-January period.

(b) The market administrator shall announce publicly on or before the 5th day of the month (except as provided in § 1000.90) the assessment pursuant to paragraph (a) of this section for the following month.

§ 1007.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day (except as provided in § 1000.90) after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received and reported pursuant to § 1007.30(a)(5), bulk milk transferred from a plant fully regulated under another Federal order as described in paragraph (c)(1) of this section or therein received, and reported pursuant to § 1007.30(3)(6), milk directly from producers’ farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments pro rata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1007.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraphs (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1007.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made, and after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Order 1005, and allocated to Class I milk pursuant to § 1000.44(a)(9); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1000.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1000.44;

(ii) The dairy farmer was not a "producer" under this order during more than 2 of the immediately preceding months of February through May and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing area of Federal Order 1005.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c)(1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset;
PART 1030—MILK IN THE UPPER MIDWEST MARKETING AREA

Subpart—Order Regulating Handling

General Provisions
Sec.
1030.1 General provisions.

Definitions
1030.2 Upper Midwest marketing area.
1030.3 Route disposition.
1030.4 Plant.
1030.5 Distributing plant.
1030.6 Supply plant.
1030.7 Pool plant.
1030.8 Nonpool plant.
1030.9 Handler.
1030.10 Producer-handler.
1030.11 [Reserved]
1030.12 Producer.
1030.13 Producer milk.
1030.14 Other source milk.
1030.15 Fluid milk product.
1030.16 Fluid cream product.
1030.17 [Reserved]
1030.18 Cooperative association.
1030.19 Commercial food processing establishment.

Handler Reports
1030.30 Reports of receipts and utilization.
1030.31 Payroll reports.
1030.32 Other reports.

Classification of Milk
1030.40 Classes of utilization.
1030.41 [Reserved]
1030.42 Classification of transfers and diversions.
1030.43 General classification rules.
1030.44 Classification of producer milk.
1030.45 Market administrator's reports and announcements concerning classification.

Class Prices
1030.50 Class prices, component prices, and advanced pricing factors.
1030.51 Class I differential and price.
1030.52 Adjusted Class I differentials.
1030.53 Announcement of class prices, component prices, and advanced pricing factors.
1030.54 Equivalent price.
1030.55 Transportation credits and assembly credits.

Producer Price Differential
1030.60 Handler's value of milk.
1030.61 Computation of producer price differential.
1030.62 Announcement of producer prices.

Payments for Milk
1030.70 Producer-settlement fund.
1030.71 Payments to the producer-settlement fund.
1030.72 Payments from the producer-settlement fund.
1030.73 Payments to producers and to cooperative associations.
1030.74 [Reserved]
1030.75 Plant location adjustments for producer milk and nonpool milk.
1030.76 Payments by a handler operating a partially regulated distributing plant.


(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:
(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;
(ii) Multiply the number of miles so determined by 0.35 cent;
(iii) Subtract the applicable Class I differential in §1000.52 for the county in which the shipping plant is located from the Class I differential applicable for the county in which the receiving plant is located;
(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and
(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.
(3) For the remaining milk described in paragraph (c)(2) of this section after computations described in paragraph (d)(1) of this section, the market administrator shall:
(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant;
(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the origination point;
(iii) Subtract 85 miles from the mileage so determined;
(iv) Multiply the remaining miles so computed by 0.35 cent;
(v) Subtract the Class I differential specified in §1000.52 applicable for the county in which the origination point is located from the Class I differential applicable at the receiving pool plant's location;
(vi) Subtract any positive difference computed in paragraph (d)(3)(vi) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and
(vii) Multiply the remainder computed in paragraph (d)(3)(iv) of this section by the hundredweight of milk described in paragraph (d)(3) of this section.

Administrative Assessment and Marketing Service Deduction
§ 1007.85 Assessment for order administration.
See §1000.85.

§ 1007.86 Deduction for marketing services.
See §1000.86.

§ 1030.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction
1030.85 Assessment for order administration.
1030.86 Deduction for marketing services.

Subpart—Order Regulating Handling
General Provisions
§ 1030.1 General provisions.
The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order. In this part 1030, all references to sections in part 1000 refer to part 1000 of this chapter.

Definitions
§ 1030.2 Upper Midwest marketing area.
The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Illinois Counties

Iowa Counties
Howard, Kossuth, Mitchell, Winnebago, Winneshiek, and Worth.

Michigan Counties
Delta, Dickinson, Gogebic, Iron, Menominee, and Ontonagon.

Minnesota
All counties except Lincoln, Nobles, Pipestone, and Rock.

North Dakota Counties
Barnes, Cass, Cavalier, Dickey, Grand Forks, Griggs, LaMoure, Nelson, Pembina, Ramsey, Ransom, Richland, Sargent, Steele, Traill, and Walsh.

South Dakota Counties

Wisconsin Counties
All counties except Crawford and Grant.

§ 1030.3 Route disposition.
See §1000.3.

§ 1030.4 Plant.
See §1000.4.

§ 1030.5 Distributing plant.
See §1000.5.
§ 1030.6 Supply plant.

See § 1000.6.

§ 1030.7 Pool plant.

Pool plant means a plant, unit of plants, or system of plants as specified in paragraphs (a) through (f) of this section, but excluding a plant specified in paragraph (h) of this section. The pooling standards described in paragraphs (c) and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal order, except that whenever shipping requirements are increased pursuant to this section, shipping requirements of paragraphs (c) and (f) of this section in the same manner as a pool plant shall be limited to the quantity shipped to pool distributing plants during the month and credits for shipments to other order plants shall not include any such shipments made on the basis of agreed-upon Class II, Class III, or Class IV utilization.

(b) Any distributing plant located in the marketing area which during the month processed at least 15 percent of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area.

(c) A supply plant from which the quantity of Grade A fluid milk products shipped to (and physically unloaded into) plants described in paragraph (c)(1) of this section is not less than 10 percent of the Grade A milk received from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1000.9(c), including milk diverted pursuant to § 1030.13, subject to the following conditions:

(1) Qualifying shipments may be made to plants described in paragraphs (c)(1)(i) through (iv) of this section, except that whenever shipping requirements are increased pursuant to paragraph (g) of this section, only shipments to pool plants described in paragraphs (a), (b), and (e) of this section shall count as qualifying shipments for the purpose of meeting the increased requirements:

(i) Pool plants described in § 1030.7(a), (b) and (e);

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk classified as Class I at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for shipments to such plants shall be limited to the quantity shipped to pool distributing plants during the month and credits for shipments to other order plants shall not include any such shipments made on the basis of agreed-upon Class II, Class III, or Class IV utilization.

(2) The handler(s) establishing the system submits a written request to the market administrator on or before July 15 requesting that such plants qualify as a system for the period of August through July of the following year. Such request will contain a list of the plants participating in the system in the order, beginning with the last plant, in which the plants will be dropped from the system if the system fails to qualify.

(3) Concentrated milk transferred from the supply plant to a distributing plant for an agreed-upon use other than Class I shall be excluded from the supply plant's shipments in computing the supply plant's shipping percentage.

(d) [Reserved]

(e) Two or more plants operated by the same handler and located in the marketing area that qualify for pool status as a unit by meeting the total and in-area route disposition requirements of a pool distributing plant specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products; and

(3) The operator of the unit has filed a written request with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month-to-month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change in the operator is desired.

(f) A system of 2 or more supply plants operated by one or more handlers may qualify for pooling by meeting the shipping requirements of paragraph (c) of this section in the same manner as a single plant subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area or was a pool supply plant pursuant to § 1030.7(c) for each of the 3 months immediately preceding the effective date of this paragraph as such a plant is desired to maintain pool status. Cooperative associations may not use shipments pursuant to § 1000.9(c) to qualify plants located outside the marketing area;

(2) The handler(s) establishing the system submits a written request to the market administrator on or before July 15 requesting that such plants qualify as a system for the period of August through July of the following year. Such request will contain a list of the plants participating in the system in the order, beginning with the last plant, in which the plants will be dropped from the system if the system fails to qualify.

(3) Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system through the following July unless the handler(s) establishing the system submits a written request to the market administrator that the plant be deleted from the system or that the system be discontinued. Any plant that has been so deleted from a system, or that has failed to qualify in any month, will not be part of any system for the remaining months through July. The handler(s) that established a system may add a plant operated by such handler(s) to a system if such plant has been a pool plant each of the 6 prior months and would otherwise be eligible to be in a system, upon written request to the market administrator no later than the 15th day of the prior month. In the event of an ownership change or the business failure of a handler that is a participant in a system, the system may be reorganized to reflect such changes if a written request to the market administrator to file a new marketing agreement is submitted to the market administrator; and

(4) If a system fails to qualify under the requirements of this paragraph, the handler responsible for qualifying the system shall notify the market administrator which plant or plants will be deleted from the system so that the remaining plants may be pooled as a system. If the handler fails to do so, the market administrator shall exclude one or more plants, beginning at the bottom of the list of plants in the system and continuing up the list as necessary until the deliveries are sufficient to qualify the remaining plants in the system.

(g) The applicable shipping percentages of paragraphs (c) and (f) of this section and the diversion limits as described in § 1030.13(d)(2) may be increased or decreased, for all or part of the marketing area, by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent unreasonable shipments. Before making such a finding the market administrator shall investigate the need for adjustment either on the market administrator's
own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping or diversion percentage must be issued in writing at least one day before the effective date.

(h) The term pool plant shall not apply to the following plants: 
(1) A producer-handler as defined under any Federal order;
(2) An exempt plant as defined in §1000.8(e);
(3) A plant located within the marketing area and qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for 3 consecutive months;
(4) A plant located outside any Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater route disposition in such other Federal order’s marketing area for 3 consecutive months;
(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;
(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and
(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

(i) Any plant that qualifies as a pool plant in each of the immediately preceding 3 months pursuant to paragraph (a) of this section or the shipping percentages in paragraph (c) of this section that is unable to meet such performance standards for the current month because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than 2 consecutive months.

§1030.8 Nonpool plant.
See §1000.8.

§1030.9 Handler.
See §1000.9.

§1030.10 Producer-handler.
Producer-handler means a person who:
(1) Operates a dairy farm and a distributing plant from which there is route disposition in the marketing area for 3 consecutive months;
(2) Receives fluid milk from own farm production or milk that is fully subject to the pricing and pooling provisions of this or any other Federal order;
(3) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler’s own farm production is less than 150,000 pounds during the month;
(4) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products; and
(5) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing and packaging operations are the producer-handler’s own enterprise and at its own risk.

§1030.11 [Reserved]

§1030.12 Producer.
(a) Except as provided in paragraph (b) of this section, producer means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:
(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with §1030.13; or
(2) Received by a handler described in §1000.9(c).
(b) Producer shall not include:
(1) A producer-handler as defined in any Federal order;
(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to §1030.13(d);
(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and
(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§1030.13 Producer milk.
Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:
(a) Received by the operator of a pool plant directly from a producer or a handler described in §1000.9(c). All milk received pursuant to this paragraph shall be priced at the plant where it is first physically received;
(b) Received by a handler described in §1000.9(c) in excess of the quantity delivered to pool plants;
(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or
(d) Diverted by the operator of a pool plant or a cooperative association described in §1000.9(c) to a nonpool plant, subject to the following conditions:
(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day’s production of such dairy farmer is physically received as producer milk at a pool plant during the first month the dairy farmer is a producer. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval or as a result of the handler of the dairy farmer’s milk failing to pool the milk under any order), the dairy farmer’s milk shall not be eligible for diversion unless at least one day’s production of the dairy farmer has been physically received as
producer milk at a pool plant during the first month the dairy farmer is re-associated with the market;
(2) The quantity of milk diverted by a handler described in § 1000.9(c) may not exceed 90 percent of the producer milk receipts reported by the handler pursuant to § 1030.30(c) provided that not less than 10 percent of such receipts are delivered to plants described in § 1030.7(c)(1)(i) through (iii). These percentages are subject to any adjustments that may be made pursuant to § 1030.7(g); and
(3) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1030.14 Other source milk.
See § 1000.14.

§ 1030.15 Fluid milk product.
See § 1000.15.

§ 1030.16 Fluid cream product.
See § 1000.16.

§ 1030.17 [Reserved]

§ 1030.18 Cooperative association.
See § 1000.18.

§ 1030.19 Commercial food processing establishment.
See § 1000.19.

Handler Reports

§ 1030.20 Reports of receipts and utilization.
Each handler shall report monthly so that the market administrator's office receives the report on or before the 9th day after the end of the month, in the detail and on the prescribed forms, as follows:
(a) Each handler that operates a pool plant shall report for each of its operations the following information:
(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in or represented by:
(i) Receipts of producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c); and
(ii) Receipts of milk from handlers described in § 1000.9(c);
(2) Product pounds and pounds of butterfat contained in:
(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;
(ii) Receipts of other source milk; and
(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.
(c) Each handler described in § 1000.9(c) shall report:
(1) The product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in receipts of milk from producers; and
(2) The utilization or disposition of such receipts.
(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1030.31 Payroll reports.
(a) On or before the 22nd day after the end of each month, each handler that operates a pool plant pursuant to § 1030.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1030.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1030.32 Other reports.
In addition to the reports required pursuant to §§ 1030.30 and 1030.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1030.40 Classes of utilization.
See § 1000.40.

§ 1030.41 [Reserved]

§ 1030.42 Classification of transfers and diversions.
See § 1000.42.

§ 1030.43 General classification rules.
See § 1000.43.

§ 1030.44 Classification of producer milk.
See § 1000.44.

§ 1030.45 Market administrator's reports and announcements concerning classification.
See § 1000.45.

Class Prices

§ 1030.50 Class prices, component prices, and advanced pricing factors.
See § 1000.50.

§ 1030.51 Class I differential and price.
The Class I differential shall be the differential established for Cook County, Illinois, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Cook County, Illinois.

§ 1030.52 Adjusted Class I differentials.
See § 1000.52.

§ 1030.53 Announcement of class prices, component prices, and advanced pricing factors.
See § 1000.53.

§ 1030.54 Equivalent price.
See § 1000.54.

§ 1030.55 Transportation credits and assembly credits.
(a) Each handler operating a pool distributing plant described in § 1030.7(a), (b), or (e) that receives bulk milk from another pool plant shall receive a transportation credit for such milk computed as follows:
(1) Determine the hundredweight of milk eligible for the credit by completing the steps in paragraph (c) of this section;
(2) Multiply the hundredweight of milk eligible for the credit by .28 cents times the number of miles between the transferor plant and the transferee plant;
(3) Subtract the effective Class I price at the transferor plant from the effective Class I price at the transferee plant;
(4) Multiply any positive amount resulting from the subtraction in paragraph (a)(3) of this section by the hundredweight of milk eligible for the credit; and
(5) Subtract the amount computed in paragraph (a)(4) of this section from the
The amount computed in paragraph (a)(2) of this section, if the amount computed in paragraph (a)(4) of this section exceeds the amount computed in paragraph (a)(2) of this section, the transportation credit shall be zero.

(b) Each handler operating a pool distributing plant described in §1030.7(a), (b), or (e) that receives milk from dairy farmers, each handler that transfers or diverts bulk milk from a pool plant to a pool distributing plant, and each handler described in §1000.9(c) that delivers producer milk to a pool distributing plant shall receive an assembly credit on the portion of such milk eligible for the credit pursuant to paragraph (c) of this section. The credit shall be computed by multiplying the hundredweight of milk eligible for the credit by 8 cents.

(c) The following procedure shall be used to determine the amount of milk eligible for transportation and assembly credits pursuant to paragraphs (a) and (b) of this section:

1. Multiply the pounds of protein in Class I skim milk by the Class I skim milk price; and
2. Add an amount obtained by multiplying the pounds of butterfat in Class I skim milk by the Class I butterfat price.

(b) Class II value.

1. Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price; and
2. Add an amount obtained by multiplying the pounds of butterfat in Class II skim milk by the Class II butterfat price.

(c) Class III value.

1. Multiply the pounds of protein in Class III skim milk by the protein price; and
2. Add an amount obtained by multiplying the pounds of other solids in Class III skim milk by the other solids price; and
3. Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) Class IV value.

1. Multiply the pounds of nonfat solids in Class IV skim milk by the nonfat solids price; and
2. Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

(e) Compute an adjustment for the somatic cell content of producer milk by multiplying the values reported pursuant to §1030.30(a)(1) and (c)(1) by the percentage of total producer milk allocated to Class II, Class III, and Class IV pursuant to §1000.44(c).

(f) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to §1000.44(a)(11) and the corresponding step of §1000.44(b) by the skim milk prices and butterfat prices applicable to each class.

(g) Multiply the difference between the current month's Class I, II, or III price, as the case may be, and the Class IV price for the preceding month and by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to §1000.44(a)(7) and the corresponding step of §1000.44(b).

(h) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to §1000.44(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to §1000.44(a)(3)(i) through (vi) and the corresponding step of §1000.44(b), excluding receipts of bulk fluid cream products from plants regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants.

(i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to §1000.43(d) and §1000.44(a)(3)(i) and the corresponding step of §1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to §1000.44(a)(8) and the corresponding step of §1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(j) For reconstituted milk made from receipts of nonfluid milk products, multiply $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of such product.
nonfluid milk products that are
allocated to Class I use pursuant to
§ 1000.43(d).
§ 1030.61 Computation of producer price
differential.
  For each month the market
administrator shall compute a producer
price differential per hundredweight.
The report of any handler who has not
made payments required pursuant to
§ 1030.71 for the preceding month shall
not be included in the computation of
the producer price differential, and such
handler’s report shall not be included in
the computation for succeeding months
until the handler has made full payment
of outstanding monthly obligations.
Subject to the aforementioned
conditions, the market administrator
shall compute the producer price
differential in the following manner:
(a) Combine into one total the values
computed pursuant to § 1030.60 for all
handlers required to file reports
prescribed in § 1030.30;
(b) Subtract the total values obtained
by multiplying each handler’s total
pounds of protein, other solids, and
butterfat contained in the milk for
which an obligation was computed
pursuant to § 1030.60 by the protein
price, the other solids price, and the
butterfat price, respectively, and the
total value of the somatic cell
adjustment pursuant to § 1030.30(a)(1)
and (c)(1);
(c) Add an amount equal to the sum
of the location adjustments computed
pursuant to § 1030.75;
(d) Add an amount equal to not less
than one-half of the unobligated balance
in the producer-settlement fund;
(e) Divide the resulting amount by the
sum of the following for all handlers
included in these computations:
(1) The total hundredweight of
producer milk; and
(2) The total hundredweight for which
a value is computed pursuant to
§ 1030.60(1); and
(f) Subtract not less than 4 cents nor
more than 5 cents from the price
computed pursuant to paragraph (e) of
this section. The result shall be known
as the producer price differential for
the month.
§ 1030.62 Announcement of producer
prices.
  On or before the 13th day after the
end of each month, the market
administrator shall announce publicly
the following prices and information:
(a) The producer price differential;
(b) The protein price;
(c) The nonfat solids price;
(d) The other solids price;
(e) The butterfat price;
(f) The somatic cell adjustment rate;
(g) The average butterfat, nonfat
solids, protein and other solids content
of producer milk; and
(h) The statistical uniform price for
milk containing 3.5 percent butterfat,
computed by combining the Class III
price and the producer price
differential.
Payments for Milk
§ 1030.70 Producer-settlement fund.
  See § 1000.70.
§ 1030.71 Payments to the producer-
settlement fund.
  Each handler shall make payment to
the producer-settlement fund in a
manner that provides receipt of the
funds by the market administrator
later than the 16th day after the end of
the month (except as provided in
§ 1000.90). Payment shall be the
amount, if any, by which the amount
specified in paragraph (a) of this section
exceeds the amount specified in
paragraph (b) of this section:
(a) The total value of milk to the
handler for the month as determined
pursuant to § 1030.60.
  (b) The sum of:
  (1) An amount obtained by
multiplying the total hundredweight of
producer milk as determined pursuant to
§ 1000.44(c) by the producer price
differential as adjusted pursuant to
§ 1030.75;
  (2) An amount obtained by
multiplying the total pounds of protein,
other solids, and butterfat contained in
producer milk by the protein, other
solids, and butterfat prices respectively;
  (3) The total value of the somatic cell
adjustment to producer milk; and
  (4) An amount obtained by
multiplying the pounds of skim milk
and butterfat for which a value was
computed pursuant to § 1030.60(i) by
the producer price differential as
adjusted pursuant to § 1030.75 for the
location of the plant from which
received.
§ 1030.72 Payments from the producer-
settlement fund.
  No later than the 16th day after the
end of each month (except as provided
in § 1000.90), the market administrator
shall pay to each handler the amount, if
any, by which the amount computed
pursuant to § 1030.71(b) exceeds the
amount computed pursuant to
§ 1030.71(a). If, at such time, the balance
in the producer-settlement fund is
insufficient to make all payments
pursuant to this section, the market
administrator shall reduce uniformly
such payments and shall complete the
payments as soon as the funds are
available.
§ 1030.73 Payments to producers and to
coooperative associations.
(a) Each handler shall pay each
producer for producer milk for which
payment is not made to a cooperative
association pursuant to paragraph (b) of
this section, as follows:
  (1) Partial payment. For each
producer who has not discontinued
ships as of the date of this partial
payment, payment shall be made so that
it is received by each producer on or
before the 26th day of the month (except
as provided in § 1000.90) for milk
received during the first 15 days of the
month from the producer at not less
than the lowest announced class price
for the preceding month, less proper
deductions authorized in writing by the
producer.
  (2) Final payment. For milk received
during the month, payment shall be
made so that it is received by each
producer no later than the 17th day after
the end of the month (except as
provided in § 1000.90) in an amount
equal to not less than the sum of:
  (i) The hundredweight of producer
milk received times the producer price
differential for the month as adjusted
pursuant to § 1030.75;
  (ii) The pounds of butterfat received
times the butterfat price for the month;
  (iii) The pounds of protein received
times the protein price for the month;
  (iv) The pounds of other solids
received times the other solids price for
the month;
  (V) The hundredweight of milk
received times the somatic cell
adjustment for the month;
  (vi) Less any payment made pursuant
to paragraph (a)(1) of this section;
  (vii) Less proper deductions
authorized in writing by such producer,
and plus or minus adjustments for
errors in previous payments to such
producer subject to approval by the
market administrator; and
  (viii) Less deductions for marketing
services pursuant to § 1000.86.
  (b) Payments for milk received from
cooperaive association members. On or
before the day prior to the dates
specified in paragraphs (a)(1) and (a)(2)
of this section (except as provided in
§ 1000.90), each handler shall pay to a
cooperative association for milk from
producers who market their milk
through the cooperative association and
who have authorized the cooperative to
collect such payments on their behalf an
amount equal to the sum of such
individual payments otherwise payable
for such producer milk pursuant to


paragraphs (a)(1) and (a)(2) of this section,

(c) Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c). On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section (except as provided in § 1000.90), each handler who receives fluid milk products at its plant from a cooperative association in its capacity as the operator of a pool plant or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1000.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, shall pay the cooperative for such milk as follows:

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than the lowest announced class prices per hundredweight for the preceding month;

(2) For the total quantity of bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association’s pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44, as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I price to be used shall be that price effective at the location of the receiving plant;

(ii) The pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price;

(iii) The pounds of butterfat in Class II times the Class II butterfat price;

(iv) The pounds of nonfat solids in Class IV times the nonfat solids price;

(v) The pounds of butterfat in Class IV and Class IV milk times the butterfat price;

(vi) The pounds of protein in Class III milk times the protein price;

(vii) The pounds of other solids in Class III milk times the other solids price;

(viii) The hundredweight of Class II, Class III, and Class IV milk times the somatic cell adjustment; and

(ix) Add together the amounts computed in paragraphs (c)(2)(i) through (viii) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section;

(3) For the total quantity of milk received during the month from a cooperative association in its capacity as a handler under § 1000.9(c) as follows:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1030.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month, and

(vi) Add together the amounts computed in paragraphs (c)(3)(i) through (v) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(d) If a handler has not received full payment from the market administrator pursuant to § 1030.72 by the payment date specified in paragraph (a), (b) or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b) of this section, prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer or to the lawful claimant, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer’s milk;

(4) The somatic cell count of the producer’s milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1030.74 [Reserved]

§ 1030.75 Plant location adjustments for producer milk and nonpool milk.

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in § 1030.51 from the Class I price at the plant’s location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§ 1030.73 and 1000.76.

§ 1030.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76.

§ 1030.77 Adjustment of accounts.

See § 1000.77.

§ 1030.78 Charges on overdue accounts.

See § 1000.78.

Administrative Assessment and Marketing Service Deduction

§ 1030.85 Assessment for order administration.

See § 1000.85.

§ 1030.86 Deduction for marketing services.

See § 1000.86.
PART 1032—MILK IN THE CENTRAL MARKETING AREA

Subpart—Order Regulating Handling

General Provisions
Sec.
1032.1 General provisions.

Definitions
1032.2 Central marketing area.
1032.3 Route disposition.
1032.4 Plant.
1032.5 Distributing plant.
1032.6 Supply plant.
1032.7 Pool plant.
1032.8 Nonpool plant.
1032.9 Handler.
1032.10 Producer-handler.
1032.11 [Reserved]
1032.12 Producer.
1032.13 Producer milk.
1032.14 Other source milk.
1032.15 Fluid milk product.
1032.16 Fluid cream product.
1032.17 [Reserved]
1032.18 Cooperative association.
1032.19 Commercial food processing establishment.

Handler Reports
1032.30 Reports of receipts and utilization.
1032.31 Payroll reports.
1032.32 Other reports.

Classification of Milk
1032.40 Classes of utilization.
1032.41 [Reserved]
1032.42 Classification of transfers and diversions.
1032.43 General classification rules.
1032.44 Classification of producer milk.
1032.45 Market administrator’s reports and announcements concerning classification.

Class Prices
1032.50 Class prices, component prices, and advanced pricing factors.
1032.51 Class I differential and price.
1032.52 Adjusted Class I differentials.
1032.53 Announcement of class prices, component prices, and advanced pricing factors.
1032.54 Equivalent price.

Producer Price Differential
1032.60 Handler’s value of milk.
1032.61 Computation of producer price differential.
1032.62 Announcement of producer prices.

Payments for Milk
1032.70 Producer-settlement fund.
1032.71 Payments to the producer-settlement fund.
1032.72 Payments from the producer-settlement fund.
1032.73 Payments to producers and to cooperative associations.
1032.74 [Reserved]
1032.75 Plant location adjustments for producer milk and nonpool milk.
1032.76 Payments by a handler operating a partially regulated distributing plant.
1032.77 Adjustment of accounts.
1032.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction
1032.85 Assessment for order administration.
1032.86 Deduction for marketing services.


Subpart—Order Regulating Handling

General Provisions
§ 1032.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order. In this part 1032, all references to sections in part 1000 refer to part 1000 of this chapter.

Definitions
§ 1032.2 Central marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Colorado Counties

Illinois Counties

Iowa Counties
All Iowa counties except Howard, Kossuth, Mitchell, Winnebago, Winneshiek, and Worth.

Kansas
All of the State of Kansas.

Minnesota Counties
Lincoln, Nobles, Pipestone, and Rock.

Missouri Counties and Cities

Nebraska Counties

Oklahoma Counties
All of the State of Oklahoma.

South Dakota Counties
Aurora, Beadle, Bon Homme, Brookings, Clark, Clay, Codington, Davison, Deuel, Douglas, Hamlin, Hanson, Hutchinson, Jerauld, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Spink, Turner, Union, and Yankton.

Wisconsin Counties
Crawford and Grant.

§ 1032.3 Route disposition.
See § 1000.3.

§ 1032.4 Plant.
See § 1000.4.

§ 1032.5 Distributing plant.
See § 1000.5.

§ 1032.6 Supply plant.
See § 1000.6.

§ 1032.7 Pool plant.
Pool plant means a plant, unit of plants, or system of plants as specified in paragraphs (a) through (f) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (c), (d), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal milk order, from which during the month 25 percent or more of the total quantity of fluid milk products physically received
at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area.

(b) Any distributing plant located in the marketing area which during the month processed at least 25 percent of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(c) A supply plant from which the quantity of bulk fluid milk products transferred or diverted to plants described in paragraph (a) or (b) of this section during each of the months of September through August of the following year shall continue to qualify as a supply plant during each of the immediately preceding 3 months.

(d) A plant located in the marketing area and operated by a cooperative association if, during the month or the immediately preceding 12-month period, 35 percent or more of the producer milk of members of the association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products (excluding concentrated milk transferred to a distributing plant for an agreed-upon use other than Class I) at plants specified in paragraph (a) or (b) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) of this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(e) Two or more plants operated by the same handler located in the marketing area may qualify for pooling if a unit by meeting the total and in-area route disposition requirements of a pool distributing plant specified in paragraph (a) of this section subject to the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products, and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) The operator of the unit has filed a written request with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month to month thereafter without further notification. The handler shall notify the market administrator in writing the effective day of any month for which termination or any change of the unit is desired.

(f) A system of supply plants may qualify for pooling if 2 or more plants operated by one or more handlers meet the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant, subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area;

(2) The handler(s) establishing the system submits a written request to the market administrator on or before September 1 requesting that such plants qualify as a system for the period of September through August of the following year. Such request will contain a list of the plants participating in the system;

(3) Each plant included within a pool supply plant system shall continue each month as a plant in the system through the following August unless the handler(s) establishing the system fails to qualify as a system in September; and

(4) If a system fails to qualify under the requirements of this paragraph, the handler responsible for qualifying the system shall notify the market administrator which plant or plants will be deleted from the system so that the remaining plants may be pooled as a system. If the handler fails to do so, the market administrator shall exclude one or more plants, beginning at the bottom of the list of plants in the system and continuing up the list as necessary until the deliveries are sufficient to qualify the remaining plants in the system.

(g) The applicable shipping percentages of paragraphs (c), (d), and (f) of this section may be increased or decreased, for all or part of the marketing area, by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator’s own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that an adjustment of the shipping percentages might be
appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in §1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for 3 consecutive months. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the market administrator is to be effective, the market administrator may determine that the route disposition in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(4) A plant located outside any Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater route disposition in such other Federal order’s marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route disposition in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and must be approved by the market administrator.

§1032.8 Nonpool plant.

See §1000.8.

§1032.9 Handler.

See §1000.9.

§1032.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is route disposition in the marketing area during the month;

(b) Receives fluid milk from own farm production or milk that is fully subject to the pricing and pooling provisions of this or any other Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler’s own farm production is less than 150,000 pounds during the month;

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing and packaging operations are the producer-handler’s own enterprise and at its own risk.

§1032.11 [Reserved]

§1032.12 Producer.

(a) Except as provided in paragraph (b) of this section, producer means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received by a pool plant directly from the producer or diverted by the producer to whom it is diverted;

(2) Received by a handler described in §1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Producer shall not include:

(1) Received at a pool plant directly from a producer or a handler described in §1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant to which diverted; or

(2) Received by a handler described in §1000.9(c) in excess of the quantity delivered to pool plants;

(3) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(4) Diverted by the operator of a pool plant or a cooperative association described in §1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion until at least one day’s production of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer’s milk shall not be eligible for diversion until the dairy farmer has been physically received as producer milk at a pool plant;

(2) The quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in §1000.9(c)) the handler diverts to nonpool plants not more than 65 percent during the months of September through November and January, and not more than 75 percent during the months of February through April and December;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of...
this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers’ deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk; and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator’s own initiative or at the request of interested persons if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1032.14 Other source milk.
See § 1000.14.

§ 1032.15 Fluid milk product.
See § 1000.15.

§ 1032.16 Fluid cream product.
See § 1000.16.

§ 1032.17 [Reserved]
See § 1000.18.

§ 1032.18 Cooperative association.
See § 1000.19.

§ 1032.19 Commercial food processing establishment.
See § 1000.19.

Handler Reports
§ 1032.30 Reports of receipts and utilization.
Each handler shall report monthly so that the market administrator’s office receives the report on or before the 7th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1032.7 shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c); and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in receipts of milk from producers; and

(2) The utilization or disposition of such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1032.31 Payroll reports.
(a) On or before the 20th day after the end of each month, each handler that operates a pool plant pursuant to § 1032.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1032.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1032.32 Other reports.
In addition to the reports required pursuant to §§ 1032.30 and 1032.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler’s obligation under the order.

Classification of Milk
§ 1032.40 Classes of utilization.
See § 1000.40.

§ 1032.41 [Reserved]

§ 1032.42 Classification of transfers and diversions.
See § 1000.42.

§ 1032.43 General classification rules.
See § 1000.43.

§ 1032.44 Classification of producer milk.
See § 1000.44.

§ 1032.45 Market administrator’s reports and announcements concerning classification.
See § 1000.45.

Class Prices
§ 1032.50 Class prices, component prices, and advanced pricing factors.
See § 1000.50.

§ 1032.51 Class I differential and price.
The Class I differential shall be the differential established for Jackson County, Missouri, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Jackson County, Missouri.

§ 1032.52 Adjusted Class I differentials.
See § 1000.52.

§ 1032.53 Announcement of class prices, component prices, and advanced pricing factors.
See § 1000.53.

§ 1032.54 Equivalent price.
See § 1000.54.

Producer Price Differential
§ 1032.60 Handler’s value of milk.
For the purpose of computing a handler’s obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler’s pool plants and of each handler described in § 1000.9(c)
with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (i) of this section and subtracting from that total amount the value computed in paragraph (j) of this section. Unless otherwise specified, the skim milk, butterfat, and the combined pounds of skim milk and butterfat referred to in this section shall result from the steps set forth in § 1000.44(a), (b), and (c), respectively, and the nonfat components of producer milk in each class shall be based upon the proportion of such components in producer skim milk. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Class I value.

(1) Multiply the pounds of skim milk in Class I by the Class I skim milk price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I by the Class I butterfat price.

(b) Class II value.

(1) Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class II times the Class II butterfat price.

(c) Class III value.

(1) Multiply the pounds of protein in Class III skim milk by the protein price; and

(2) Add an amount obtained by multiplying the pounds of other solids in Class III skim milk by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) Class IV value.

(1) Multiply the pounds of nonfat solids in Class IV skim milk by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

(e) Compute an adjustment for the somatic cell content of producer milk by multiplying the values reported pursuant to § 1032.30(a)(1) and (c)(1) by the percentage of total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) and the corresponding step of § 1000.44(b) by the skim milk prices and butterfat prices applicable to each class.

(g) Multiply the difference between the current month’s Class I, II, or III price, as the case may be, and the Class IV price for the preceding month by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants.

(i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was bought into the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(j) For reconstituted milk made from receipts of nonfluid milk products, multiply $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d).

§ 1032.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1032.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1032.60 for all handlers required to file reports prescribed in § 1032.30;

(b) Subtract the total values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1032.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1032.30(a)(1) and (c)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1032.75; and

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1032.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

§ 1032.62 Announcement of producer prices.

On or before the 11th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The nonfat solids price;

(d) The other solids price;

(e) The butterfat price;

(f) The somatic cell adjustment rate;

(g) The average butterfat, protein, nonfat solids, and other solids content of producer milk; and

(h) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1032.70 Producer-settlement fund.

See § 1000.70.
§ 1032.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 14th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1032.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1032.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1032.60(i) by the producer price differential as adjusted pursuant to § 1032.75 for the location of the plant from which received.

§ 1032.72 Payments from the producer-settlement fund.

No later than the 15th day after the end of each month (except as provided in § 1000.90), the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1032.71(b) exceeds the amount computed pursuant to § 1032.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1032.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, payment shall be made so that it is received by each producer no later than the 17th day after the end of the month (except as provided in § 1000.90) in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1032.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions for marketing services pursuant to § 1000.86.

(b) Payments for milk received from cooperative association members. On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section (except as provided in § 1000.90), each handler shall pay to a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association’s pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44 times the Class I, II, III, and IV milk times the butterfat price for the month;

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month;

(ii) The pounds of butterfat times the Class I butterfat price for the month;

(iii) The pounds of protein in Class I milk times the protein price for the month;

(iv) The pounds of nonfat solids in Class I milk times the nonfat solids price;

(v) The pounds of butterfat in Class II milk times the Class II butterfat price;

(vi) The pounds of nonfat solids in Class II milk times the nonfat solids price;

(vii) The pounds of protein in Class III milk times the protein price;

(viii) The pounds of other solids in Class III milk times the other solids price;

(ix) The hundredweight of Class II, Class III, and Class IV milk times the somatic cell adjustment; and

(c) Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c). On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section (except as provided in § 1000.90) for milk received from cooperative association in its capacity as a handler pursuant to § 1000.9(c), the handler shall pay to the producer-settlement fund the amount equal to the sum of:

(i) The hundredweight of milk received times the producer price differential as adjusted pursuant to § 1032.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;
(iv) The pounds of other solids received times the other solids price for the month;
(v) The hundredweight of milk received times the somatic cell adjustment for the month; and
(vi) Add together the amounts computed in paragraphs (c)(3)(i) through (v) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.
(d) If a handler has not received full payment from the market administrator pursuant to § 1032.72 by the payment date specified in paragraph (a), (b) or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b) of this section, prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payment(s) shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.
(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.
(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association on handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:
(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;
(2) The daily and total pounds, and the month and dates such milk was received from that producer;
(3) The total pounds of butterfat, protein, and other solids contained in the producer’s milk;
(4) The somatic cell count of the producer’s milk;
(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;
(6) The rate used in making payment if the rate is other than the applicable minimum rate;
(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and
(8) The net amount of payment to the producer or cooperative association.
§ 1032.74 [Reserved]
§ 1032.75 Plant location adjustments for producer milk and nonpool milk.
For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in § 1032.51 from the Class I price at the plant’s location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§ 1032.73 and 1000.76.
§ 1032.76 Payments by a handler operating a partially regulated distributing plant.
(See § 1000.76).
§ 1032.77 Adjustment of accounts.
(See § 1000.77).
§ 1032.78 Charges on overdue accounts.
(See § 1000.78).
Administrative Assessment and Marketing Service Deduction
§ 1032.85 Assessment for order administration.
(See § 1000.85).
§ 1032.86 Deduction for marketing services.
(See § 1000.86).
PART 1033—MILK IN THE MIDEAST MARKETING AREA
Subpart—Order Regulating Handling
General Provisions
Sec.
1033.1 General provisions. Definitions
1033.2 Mideast marketing area.
1033.3 Route disposition.
1033.4 Plant.
1033.5 Distributing plant.
1033.6 Supply plant.
1033.7 Pool plant.
1033.8 Nonpool plant.
1033.9 Handler.
1033.10 Producer-handler.
1033.11 [Reserved]
1033.12 Producer.
1033.13 Producer milk.
1033.14 Other source milk.
1033.15 Fluid milk product.
1033.16 Fluid cream product.
1033.17 [Reserved]
1033.18 Cooperative association.
1033.19 Commercial food processing establishment.
Handler Reports
1033.20 Reports of receipts and utilization.
1033.21 Payroll reports.
1033.22 Other reports.
Classification of Milk
1033.40 Classes of utilization.
1033.41 [Reserved]
1033.42 Classification of transfers and diversions.
1033.43 General classification rules.
1033.44 Classification of producer milk.
1033.45 Market administrator’s reports and announcements concerning classification.
Class Prices
1033.50 Class prices, component prices, and advanced pricing factors.
1033.51 Class I differential and price.
1033.52 Adjusted Class I differentials.
1033.53 Announcement of class prices, component prices, and advanced pricing factors.
1033.54 Equivalent price.
Producer Price Differential
1033.60 Handler’s value of milk.
1033.61 Computation of producer price differential.
1033.62 Announcement of producer prices.
Payments for Milk
1033.70 Producer-settlement fund.
1033.71 Payments to the producer-settlement fund.
1033.72 Payments from the producer-settlement fund.
1033.73 Payments to producers and to cooperative associations.
1033.74 [Reserved]
1033.75 Plant location adjustments for producer milk and nonpool milk.
1033.76 Payments by a handler operating a partially regulated distributing plant.
1033.77 Adjustment of accounts.
1033.78 Charges on overdue accounts.
Administrative Assessment and Marketing Service Deduction
1033.85 Assessment for order administration.
1033.86 Deduction for marketing services.
Subpart—Order Regulating Handling
General Provisions
§ 1033.1 General provisions.
The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order. In this part 1033, all references to sections in part 1000 refer to part 1000 of this chapter.
Definitions

§1033.2 Mideast marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Ohio
The townships of Woodville and Madison in Sandusky County and all other counties in Ohio except Erie, Huron, and Ottawa.

Indiana Counties

Kentucky Counties
Boone, Boyd, Bracken, Campbell, Floyd, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Pendleton, Pike, and Robertson.

Michigan Counties
All counties except Delta, Dickinson, Gogebic, Iron, Menominee, and Ontonagon.

Pennsylvania Counties

In Clarion County only the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby.

All of Westmoreland County except the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair, and the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward.

West Virginia Counties

§1033.4 Plant.

See §1000.4.

§1033.5 Distributing plant.

See §1000.5.

§1033.6 Supply plant.

See §1000.6.

§1033.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section, but excluding a plant specified in paragraph (h) of this section. The pooling standards described in paragraphs (c) through (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or section 7(b) of any other Federal milk order, from which during the month 30 percent or more of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area.

(b) Any distributing plant located in the marketing area which during the month processed at least 30 percent of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(c) A supply plant from which the quantity of bulk fluid milk products shipped to, received at, and physically unloaded into plants described in paragraph (a) or (b) of this section as a percent of the Grade A milk received at the plant from dairy farmers (except dairy farmers described in §1033.12(b)) and handlers described in §1033.9(c), as reported in §1033.30(a), is not less than 30 percent of the milk received from dairy farmers, including milk diverted pursuant to §1033.13, subject to the following conditions:

(1) Qualifying shipments pursuant to this paragraph may be made to the following plants, except whenever the authority provided in paragraph (g) of this section is applied to increase the shipping requirements specified in this section, only shipments to pool plants described in §1033.7(a) and (b), shall count as qualifying shipments for the purpose of meeting the increased shipments:

(i) Pool plants described in §1033.7(a) and (b);

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk classified as Class I at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for transfers to such plants shall be limited to the quantity shipped to pool distributing plants during the month. Qualifying transfers to other order plants shall not include transfers made on the basis of agreed-upon Class II, Class III, or Class IV utilization.

(2) The operator of a supply plant may include deliveries to pool distributing plants directly from farms of producers pursuant to §1033.13(c) as up to 90 percent of the supply plant’s qualifying shipments.

(3) Concentrated milk transferred from the supply plant to a distributing plant for an agreed-upon use other than Class I shall be excluded from the supply plant’s shipments in computing the supply plant’s shipping percentage.

(4) A supply plant that meets the shipping requirements of this paragraph during each of the immediately preceding months of September through February shall be a pool plant during the following months of March through August unless the milk received at the plant fails to meet the requirements of a duly constituted regulatory agency, the plant fails to meet a shipping requirement instituted pursuant to section 7(b) of any other Federal milk order, or the plant operator requests nonpool status for the plant. Such nonpool status shall be effective on the first day of the month following the receipt of such request and thereafter until the plant again qualifies as a pool plant on the basis of its deliveries to a pool distributing plant(s). The automatic pool qualification of a plant can be waived if the handler or cooperative requests in writing to the market administrator the nonpool status of such plant. The request must be made prior to the beginning of any month during the March through August period. The plant shall be a nonpool plant for such month and thereafter until it requalifies under paragraph (c) of this section on the basis of actual shipments therefrom. To requalify as a pool plant under paragraph (d), (e), or (f) of this section, such plant must first have met the percentage shipping requirements of paragraph (c) of this section for 6 consecutive months.
(5) A supply plant that does not meet the minimum delivery requirements specified in this paragraph to qualify for pool status in the current month because a distributing plant to which the supply plant delivered its fluid milk products during such month failed to qualify as a pool plant pursuant to paragraph (a) or (b) of this section shall continue to be a pool plant for the current month if such supply plant qualified as a pool plant in the 3 immediately preceding months.

(d) A plant operated by a cooperative association if, during the month, 30 percent or more of the producer milk of members of the association is delivered to a distributing pool plant(s) or to a nonpool plant(s), and classification other than Class I is not requested. Deliveries for qualification purposes may be made directly from the farm or by transfer from such association’s plant, subject to the following conditions:

(1) The cooperative requests pool status for such plant;

(2) The 30-percent delivery requirement may be met for the current month or it may be met on the basis of deliveries during the preceding 12-month period ending with the current month;

(3) The plant is approved by a duly constituted regulatory authority to handle milk for fluid consumption; and

(4) The plant does not qualify as a pool plant under paragraph (a), (b), or (c) of this section or under the similar provisions of another Federal order applicable to a distributing plant or supply plant.

(e) A plant located inside the marketing area which has been a pool plant under this order or its predecessor orders for twelve consecutive months, but is not otherwise qualified under this paragraph, if it has a marketing agreement with a cooperative association and it fulfills the following conditions:

(1) The aggregate monthly quantity supplied by all producers such an agreement as a percentage of the producer milk receipts included in the unit during the month is not less than 35 percent; and

(2) Shipments for qualification purposes shall include both transfers from supply plants to plants described in paragraph (c)(1) of this section, and deliveries made direct from the farm to plants qualified under paragraph (a) of this section.

(f) A system of supply plants may qualify for pooling if 2 or more plants operated by one or more handlers meet the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area, or was a pool supply plant for each of the 3 months immediately preceding the effective date of this paragraph so long as it continues to maintain pool status. Cooperative associations may not use shipments pursuant to §1033.9(c) to qualify plants located outside the marketing area;

(2) A written notification to the market administrator listing the plants to be included in the system and the handler that is responsible for meeting the performance requirements of this paragraph under a marketing agreement certified to the market administrator by the designated handler and any others included in the system, and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the 5th working day following the month to which the notice applies. The listed plants included in the system shall also be in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify the entire system for pooling, the last listed plant shall be excluded from the system, followed by the plant next-to-last on the list, and continuing in this sequence until remaining listed plants have met the minimum shipping requirements; and

(3) Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system unless the plant subsequently fails to qualify for pooling, or the responsible handler submits a written notification to the market administrator prior to the first day of the month that the plant is to be deleted from the system, or that the system is to be discontinued. In any month of March through August, a system shall not contain any plant which was not qualified under this paragraph, either individually or as a member of a system, during the previous September through February.

(g) The applicable shipping percentages of paragraphs (c) through (f) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator’s own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

(h) Any plant that qualifies as a pool plant in each of the immediately preceding 3 months pursuant to...
paragraph (a) of this section or the shipping percentages in paragraph (c) of this section that is unable to meet such performance standards for the current month because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than 2 consecutive months.

§ 1033.8 Nonpool plant.

See § 1000.8.

§ 1033.9 Handler.

See § 1000.9.

§ 1033.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is route disposition in the marketing area during the month;

(b) Receives fluid milk from own farm production or that is fully subject to the pricing and pooling provisions of this or any other Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler’s own farm production is less than 150,000 pounds during the month;

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing and packaging operations are the producer-handler’s own enterprise and at its own risk.

§ 1033.11 [Reserved]

§ 1033.12 Producer.

(a) Except as provided in paragraph (b) of this section, producer means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1033.13; or

(2) Received by a handler described in § 1033.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1033.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1033.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or by a cooperative association described in § 1033.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer’s milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) The equivalent of at least one day’s production is caused by the handler to be physically received at a pool plant in each of the months of September through November;

(3) Of the total quantity of producer milk received during the month (including diversions but excluding the quantity of producer milk received from a handler described in § 1000.9(c)), the handler diverted to nonpool plants not more than 60 percent during the months of September through February;

(4) Diverted milk shall be priced at the location of the plant to which diverted;

(5) Any milk diverted in excess of the limits set forth in paragraph (d)(3) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to designate the dairy farmer deliveries which are ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler; and

(6) The delivery day requirements and the diversion percentages in paragraphs (d)(2) and (d)(3) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator’s own initiative or at the request of interested persons if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1033.14 Other source milk.

See § 1000.14.

§ 1033.15 Fluid milk products.

See § 1000.15.

§ 1033.16 Fluid cream product.

See § 1000.16.

§ 1033.17 [Reserved]

§ 1033.18 Cooperative association.

See § 1000.18.

§ 1033.19 Commercial food processing establishment.

See § 1000.19.
Handler Reports

§1033.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to §1033.7 shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to §1000.50(p), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in §1000.9(c); and

(ii) Receipts of milk from handlers described in §1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section.

(c) Each handler described in §1000.9(c) shall report:

(1) The product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to §1000.50(p), contained in receipts of milk from producers; and

(2) The utilization or disposition of such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§1033.31 Payroll reports.

(a) On or before the 22nd day after the end of each month, each handler that operates a pool plant pursuant to §1033.7 and each handler described in §1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in §1033.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to §1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§1033.32 Other reports.

In addition to the reports required pursuant to §§1033.30 and 1033.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§1033.40 Classes of utilization.

See §1000.40.

§1033.41 [Reserved]

§1033.42 Classification of transfers and diversions.

See §1000.42.

§1033.43 General classification rules.

See §1000.43.

§1033.44 Classification of producer milk.

See §1000.44.

§1033.45 Market administrator's reports and announcements concerning classification.

See §1000.45.

Class Prices

§1033.50 Class prices, component prices, and advanced pricing factors.

See §1000.50.

§1033.51 Class I differential and price.

The Class I differential shall be the differential established for Cuyahoga County, Ohio which is reported in §1000.52. The Class I price shall be the price computed pursuant to §1000.50(a) for Cuyahoga County, Ohio.

§1033.52 Adjusted Class I differentials.

See §1000.52.

§1033.53 Announcement of class prices, component prices, and advanced pricing factors.

See §1000.53.

§1033.54 Equivalent price.

See §1000.54.

Producer Price Differential

§1033.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in §1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (i) of this section and subtracting from that total amount the value computed in paragraph (j) of this section. Unless otherwise specified, the skim milk, butterfat, and the combined pounds of skim milk and butterfat referred to in this section shall result from the steps set forth in §1000.4(a), (b), and (c), respectively, and the nonfat components of producer milk in each class shall be based upon the proportion of such components in producer skim milk. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under §1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Class I value.

(1) Multiply the pounds of skim milk in Class I by the Class I skim milk price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I by the Class I butterfat price.

(b) Class II value.

(1) Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class II times the Class II butterfat price.

(c) Class III value.

(1) Multiply the pounds of protein in Class III skim milk by the protein price; and

(2) Add an amount obtained by multiplying the pounds of other solids in Class III skim milk by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) Class IV value.

(1) Multiply the pounds of nonfat solids in Class IV skim milk by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.
(e) Compute an adjustment for the somatic cell content of producer milk by multiplying the values reported pursuant to § 1033.30(a)(1) and (c)(1) by the percentage of total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) and the corresponding step of § 1000.44(b) by the skim milk prices and butterfat prices applicable to each class.

(g) Multiply the difference between the current month’s Class I, II, or III price, as the case may be, and the Class IV price for the preceding month by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid milk products from bulk regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants.

(i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(j) For reconstituted milk made from receipts of nonfluid milk products, multiply $1.00 (but not more than the difference between the class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d).

§ 1033.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1033.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1033.60 for all handlers required to file reports prescribed in § 1033.30;

(b) Subtract the total values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1033.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1033.30(a)(1) and (c)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1033.75; and

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value was computed pursuant to § 1033.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section.

(g) The average butterfat, protein, nonfat solids, and other solids content of producer milk; and

(h) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1033.70 Producer-settlement fund.

See § 1000.70.

§ 1033.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 15th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1033.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1033.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices, respectively; and

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1033.60(i) by the producer price differential as adjusted pursuant to § 1033.75 for the location of the plant from which received.

§ 1033.72 Payments from the producer-settlement fund.

No later than the 16th day of each month, the market administrator shall make such payments to each handler in an amount, if any, which is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly...
such payments and shall complete the payments as soon as the funds are available.

§ 1033.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, payment shall be made so that it is received by each producer no later than the 17th day after the end of the month (except as provided in § 1000.90) in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1033.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions for marketing services pursuant to § 10.86.

(b) Payments for milk received from cooperative associations. On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section (except as provided in § 1000.90), each handler shall pay to a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association. For bulk fluid milk/skimmed milk received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available at the receiving plant's location.

(2) Final payment to a cooperative association for milk transferred from its pool plant. Following the classification of bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be determined as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I prices to be used shall be the prices effective at the location of the receiving plant;

(ii) The pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price;

(iii) The pounds of butterfat in Class II times the Class II butterfat price;

(iv) The pounds of nonfat solids in Class IV times the nonfat solids price;

(v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;

(vi) The pounds of protein in Class III milk times the protein price;

(vii) The pounds of other solids in Class III milk times the other solids price;

(viii) The hundredweight of Class II, Class III, and Class IV milk times the somatic cell adjustment; and

(ix) Add together the amounts computed in paragraphs (b)(i) through (viii) of this section and from that sum deduct any payment made pursuant to paragraph (b)(2) of this section and;

(4) Final payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1033.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(e) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.
§ 1033.74 [Reserved]

§ 1033.75 Plant location adjustments for producer milk and nonpool milk.
For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in §1033.51 from the Class I price at the plant’s location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§1033.73 and 1000.76.

§ 1033.76 Payments by a handler operating a partially regulated distributing plant.
See §1000.76.

§ 1033.77 Adjustment of accounts.
See §1000.77.

§ 1033.78 Charges on overdue accounts.
See §1000.78.

Administrative Assessment and Marketing Service Deduction

§ 1124.1 General provisions.

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

Subpart—Order Regulating Handling General Provisions
Sec.
1124.1 General provisions.

Definitions
1124.2 Pacific Northwest marketing area.
1124.3 Route disposition.
1124.4 Plant.
1124.5 Distributing plant.
1124.6 Supply plant.
1124.7 Pool plant.
1124.8 Nonpool plant.
1124.9 Handler.
1124.10 Producer-handler.
1124.11 Cooperative reserve supply unit.
1124.12 Producer.
1124.13 Producer milk.
1124.14 Other source milk.
1124.15 Fluid milk product.
1124.16 Fluid cream product.
1124.17 [Reserved]
1124.18 Cooperative association.
1124.19 Commercial food processing establishment.

Handler Reports
1124.20 Reports of receipts and utilization.
1124.21 Payroll reports.
1124.22 Other reports.

Classification of Milk
1124.40 Classes of utilization.
1124.41 [Reserved]
from another plant, which milk is classified other than Class I under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act) or diverted as producer milk to another plant pursuant to § 1124.13, is shipped in the form of a fluid milk product (excluding concentrated milk transferred by agreement for other than Class I use) to a pool distributing plant or is a route disposition in the marketing area of fluid milk products processed and packaged at such plant; (1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through February shall continue to so qualify in each of the following months of March through August, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of milk shipments; (2) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1000.9(c); (3) A pool plant operator may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1124.13(d); (4) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (g) of this section unless it has been a pool supply plant during each of the immediately preceding 3 months. (d)—(f) [Reserved] (g) The applicable shipping percentage must be issued in writing at least one day before the effective date. (h) The term pool plant shall not apply to the following plants: (1) A producer-handler as defined under any Federal order; (2) An exempt plant as defined in § 1000.8(e); (3) A plant located within the marketing area and qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for 3 consecutive months; (4) A plant located outside any Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater route disposition in such other Federal order’s marketing area for 3 consecutive months; (5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of such other Federal order and does not have a majority of its route disposition in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area; and (6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order.

§ 1124.8 Nonpool plant. See § 1000.8.

§ 1124.9 Handler. See § 1000.9.

§ 1124.10 Producer-handler.
Producer-handler means a person who operates a dairy farm and a distributing plant from which there is route disposition within the marketing area during the month and who the market administrator has designated a producer-handler after determining that all of the requirements of this section have been met. (a) Requirements for designation. Designation of any person as a producer-handler by the market administrator shall be contingent upon meeting the conditions set forth in paragraphs (a)(1) through (4) of this section. Following the cancellation of a previous producer-handler designation, a person seeking to have his/her producer-handler designation reinstated must demonstrate that these conditions have been met for the preceding month. (1) The care and management of the dairy animals and other resources and facilities designated in paragraph (b)(1) of this section necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) are under the complete and exclusive control and management of the producer-handler and are operated as the producer-handler’s own enterprise and at its own risk. (2) An exempt plant as defined in paragraph (d)—(f) of this section at which the producer-handler processes and packages, and from which it distributes, its own milk production is under the complete and exclusive control and management of the producer-handler and is operated as the producer-handler’s own enterprise and at its own risk. (3) The producer-handler neither receives at its designated milk production resources and facilities nor sells, handles, processes, or distributes at or through any of its designated milk handling, processing, or distributing resources and facilities other source milk products for reconstitution into fluid milk products or fluid milk products derived from any source other than: (i) Its designated milk production resources and facilities (own farm production); (ii) Pool handlers and plants regulated under any Federal order within the limitation specified in paragraph (c)(2) of this section; or (iii) Nonfat milk solids which are used to fortify fluid milk products. (4) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler’s operation; nor is any other handler so associated with the producer-handler’s operation. (b) Designation of resources and facilities. Designation of a person as a producer-handler shall include the determination of what shall constitute the person’s milk production, handling, processing, and distribution resources and facilities, all of which shall be considered an integrated operation. (1) Milk production resources and facilities shall include all resources and facilities (milking herd(s), buildings, housing such herds), and any buildings or land on which such buildings are located used for the production of milk which are
(2) Milk handling, processing, and distribution resources and facilities shall include all resources and facilities (including store outlets) used for handling, processing, and distributing fluid milk products which are solely or partially owned by, and directly or indirectly operated or controlled by, the producer-handler or in which the producer-handler has an interest, including any contractual arrangement, or over which the producer-handler directly or indirectly has control. The burden rests upon the handler who exercises any degree of management or control.

(3) All designations shall remain in effect until canceled pursuant to paragraph (c) of this section.

(c) Cancellation. The designation as a producer-handler shall be canceled upon determination by the market administrator that any of the requirements of paragraphs (a)(1) through (4) of this section are not continuing to be met, or under any of the conditions described in paragraphs (c)(1) and (2) of this section. Cancellation of a producer-handler’s status pursuant to this paragraph shall be effective on the first day of the month following the month in which the requirements were not met or the conditions for cancellation occurred.

(1) Milk from the milk production resources and facilities of the producer-handler, designated in paragraph (b)(1) of this section, is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the milk production facilities and resources designated in paragraph (b)(1) of this section, except that it may receive at its plant, or acquire for route disposition, fluid milk products from fully regulated plants and handlers under any Federal order if such milk does not exceed 150,000 pounds monthly. This limitation shall not apply if the producer-handler’s own farm production is less than 150,000 pounds during the month.

(d) Public announcement. The market administrator shall publicly announce:

(1) The name, plant location(s), and farm location(s) of persons designated as producer-handlers;

(2) The names of those persons whose designations have been canceled; and

(3) The effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) Burden of establishing and maintaining producer-handler status.

§1124.11 Cooperative reserve supply unit.

Cooperative reserve supply unit means any cooperative association or its agent that is a handler pursuant to §1000.9(c) that does not own or operate a plant, if such cooperative has been qualified to receive payments pursuant to §1124.73 and has been a handler of producer milk under this or its predecessor order during each of 12 previous months, and if a majority of the cooperative’s member producers are located within 125 miles of a plant described in §1124.7(a). A cooperative reserve supply unit shall be subject to the following conditions:

(a) The cooperative shall file a request with the market administrator for cooperative reserve supply unit status at least 15 days prior to the first day of the month in which such status is desired to be effective. Once qualified as a cooperative reserve supply unit pursuant to this paragraph, such status shall continue to be effective unless the cooperative requests termination prior to the first day of the month that change of status is requested, or the cooperative fails to meet all of the conditions of this section.

(b) The cooperative reserve supply unit supplies fluid milk products to pool distributing plants located within 125 miles of a majority of the cooperative’s member producers in compliance with any announcement by the market administrator requesting a minimum level of shipments as further provided below:

(1) The market administrator may require such supplies of bulk fluid milk from cooperative reserve supply units whenever the market administrator finds that milk supplies for Class I use are needed for plants defined in §1124.7(a) or (b). Before making such a finding, the market administrator shall investigate the need for such shipments either on the market administrator’s own initiative or at the request of interested persons if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the market administrator’s investigation shows that such shipments might be appropriate, the market administrator shall issue a notice stating that a shipping announcement is being considered and inviting data, views and arguments with respect to the proposed shipping announcement. Any decision on the required shipment of bulk fluid milk from cooperative reserve supply units must be made in writing at least one day before the effective date.

(2) Failure of a cooperative reserve supply unit to comply with any announced shipping requirements, including making any significant change in the unit’s marketing operation that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of cooperative reserve supply unit status until such time as the unit has been a handler pursuant to §1000.9(c) for at least 12 consecutive months.

§1124.12 Producer.

(a) Except as provided in paragraph (b) of this section, producer means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received by a handler described in §1124.7(a) or (b) of this section, producer milk to another handler.

(2) Received by a handler described in §1124.7(a) or (b) of this section, producer milk to another handler.

(2) Failure of a cooperative reserve supply unit to comply with any announced shipping requirements, including making any significant change in the unit’s marketing operation that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of cooperative reserve supply unit status until such time as the unit has been a handler pursuant to §1000.9(c) for at least 12 consecutive months.

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to §1124.13(e);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as producer under that order and that milk is allocated by request to a utilization other than Class I;
(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order; and
(5) A dairy farmer whose milk was received at a nonpool plant during the month from the same farm as other than producer milk under this or any other Federal order. Such a dairy farmer shall be known as a dairy farmer for other markets.

§ 1124.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:
(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;
(b) Received by a cooperative reserve supply unit described in § 1124.11. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received and shall not be subject to the conditions specified in paragraph (e) of this section;
(c) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;
(d) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or
(e) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c), excluding a cooperative reserve supply unit described in § 1124.11, to a nonpool plant, subject to the following conditions:
(1) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 80 percent during the months of September through February, and not more than 99 percent during the months of March through August;
(2) Two or more handlers described in § 1000.9(c) may have their allowable diversions computed on the basis of their combined deliveries of producer milk which they caused to be delivered to pool plants or diverted during the month if each has filed a request in writing with the market administrator before the first day of the month the agreement is to be effective. The request shall specify the basis for assigning overdiverted milk to the producer deliveries of each according to a method approved by the market administrator.

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in paragraph (e)(1) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers’ deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by such producer as producer milk during the month will not be subject to § 1124.12(b)(5); and

(5) The applicable diversion limits in paragraph (e)(1) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator’s own initiative or at the request of interested persons if the request is made at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1124.14 Other source milk.

See § 1000.14.

§ 1124.15 Fluid milk product.

See § 1000.15.

§ 1124.16 Fluid cream product.

See § 1000.16.

§ 1124.17 [Reserved]

§ 1124.18 Cooperative association.

See § 1000.18.

§ 1124.19 Commercial food processing establishment.

See § 1000.19.

Handler Reports

§ 1124.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator’s office receives the report on or before the 9th day after the end of the month, in the detail and on the prescribed forms, as follows:
(a) Each handler that operates a pool plant pursuant to § 1124.7 shall report for each of its operations the following information:
(1) Product pounds, pounds of butterfat, pounds of protein, and pounds of solids-not-fat other than protein (other solids) contained in or represented by:
(i) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c); and
(ii) Receipts of milk from handlers described in § 1000.9(c);
(2) Product pounds and pounds of butterfat contained in:
(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;
(ii) Receipts of other source milk; and
(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;
(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and
(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and other nonfat solids, as the market administrator may prescribe.
(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.
(c) Each handler described in § 1000.9(c) shall report:
(1) The product pounds, pounds of butterfat, pounds of protein, and the pounds of solids-not-fat other than protein (other solids) contained in receipts of milk from producers; and
(2) The utilization or disposition of such receipts.
(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.
§ 1124.31 Payroll reports.
(a) On or before the 20th day after the end of each month, each handler shall report any information the market administrator deems necessary to verify or establish each handler’s obligation under the order.

§ 1124.32 Other reports.
In addition to the reports required pursuant to §§ 1124.30 and 1124.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler’s obligation under the order.

Classification of Milk
§ 1124.40 Classes of utilization.
See § 1000.40.

§ 1124.41 [Reserved]

§ 1124.42 Classification of transfers and diversions.
See § 1000.42.

§ 1124.43 General classification rules.
See § 1000.43.

§ 1124.44 Classification of producer milk.
In addition to the provisions provided in § 1000.44, the words “,” or acquired for distribution,” are inserted following the word “received” in § 1000.44(a)(3)(iv).

§ 1124.45 Market administrator’s reports and announcements concerning classification.
See § 1000.45.

Class Prices
§ 1124.50 Class prices, component prices, and advanced pricing factors.
See § 1000.50.

§ 1124.51 Class I differential and price.
The Class I differential shall be the differential established for King County, Washington, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for King County, Washington.

§ 1124.52 Adjusted Class I differentials.
See § 1000.52.

§ 1124.53 Announcement of class prices, component prices, and advanced pricing factors.
See § 1000.53.

§ 1124.54 Equivalent price.
See § 1000.54.

Producer Price Differential
§ 1124.60 Handler’s value of milk.
For the purpose of computing a handler’s obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler’s pool plants and of each producer described in § 1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (h) of this section and subtracting from that total amount the value computed in paragraph (i) of this section. Unless otherwise specified, the skim milk, butterfat, and the combined pounds of milk of the milk referred to in this section shall result from the steps set forth in § 1000.44(a), (b), and (c), respectively, and the nonfat components of producer milk in each class shall be based upon the proportion of such components in producer skim milk. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Class I value.
(1) Multiply the hundredweight of skim milk in Class I by the Class I skim milk price; and
(2) Add an amount obtained by multiplying the pounds of butterfat in Class I by the Class I butterfat price.

(b) Class II value.
(1) Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price; and
(2) Add an amount obtained by multiplying the pounds of butterfat in Class II times the Class II butterfat price.

(c) Class III value.
(1) Multiply the pounds of protein in Class III skim milk by the protein price; and
(2) Add an amount obtained by multiplying the pounds of other solids in Class III skim milk by the other solids price.

(d) Class IV value.
(1) Multiply the pounds of nonfat solids in Class IV skim milk by the nonfat solids price; and
(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

(e) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) and the corresponding steps of § 1000.44(b) by the skim milk prices and butterfat prices applicable to each class.

(f) Multiply the difference between the current month’s Class I, II, or III price, as the case may be, and the Class IV price for the preceding month by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b).

(g) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of fluid milk products from plants regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants.

(h) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(i) For reconstituted milk made from receipts of nonfluid milk products, multiply $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d).
§ 1124.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1124.71 for the preceding month shall be included in the computation of the producer price differential, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1124.60 for all handlers required to file reports prescribed in § 1124.30;
(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1124.60 by the protein price, the other solids price, and the butterfat price, respectively;
(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1124.75;
(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;
(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:
   (1) The total hundredweight of producer milk; and
   (2) The total hundredweight for which a value is computed pursuant to § 1124.60(h); and
(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

§ 1124.62 Announcement of producer prices.

On or before the 14th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;
(b) The protein price;
(c) The nonfat solids price;
(d) The other solids price;
(e) The butterfat price;
(f) The average butterfat, protein, nonfat solids, and other solids content of producer milk; and
(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1124.70 Producer-settlement fund.

See § 1000.70.

§ 1124.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 16th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1124.60. (b) The sum of:
   (1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential adjusted pursuant to § 1124.75;
   (2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices, respectively; and
   (3) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1124.60(h) by the producer price differential as adjusted pursuant to § 1124.75 for the location of the plant from which received.

§ 1124.72 Payments from the producer-settlement fund.

No later than the 18th day after the end of each month (except as provided in § 1000.90), the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1124.71(b) exceeds the amount computed pursuant to § 1124.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1124.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:
   (1) Partial payment: For each producer who has not discontinued shipments as of the 18th day of the month, partial payment shall be made so that it is received by each producer on or before the last day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer.
   (2) Final payment. For milk received during the month, payment shall be made so that it is received by each producer no later than the 19th day after the end of the month (except as provided in § 1000.90) in an amount equal to not less than the sum of:
      (i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1124.75;
      (ii) The pounds of butterfat received times the butterfat price for the month;
      (iii) The pounds of protein received times the protein price for the month;
      (iv) The pounds of other solids received times the other solids price for the month;
      (v) Less any payment made pursuant to paragraph (a)(1) of this section;
      (vi) Less proper deductions authorized in writing by each producer and plus or minus adjustments for errors in previous payments to such producer subject to approval by the market administrator;
      (vii) Less deductions for marketing services pursuant to § 1000.86.
   (b) Payments for milk received from cooperative association members. On or before the 2nd day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section (except as provided in § 1000.90), each handler who receives milk from producers who market their milk through a cooperative association and who have authorized the cooperative to collect such payments on their behalf shall pay the amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraphs (a)(1) and (a)(2) of this section.
   (c) Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c). On or before the 2nd day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section (except as provided in § 1000.90), each handler who receives milk from a cooperative association in its capacity as the operator of a pool plant or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1000.9(c), including the
milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, shall pay the cooperative for such milk as follows:

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant and for milk received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than the lowest announced class price per hundredweight for the preceding month.

(2) For the total quantity of bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association’s pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44, as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I prices to be used shall be the prices effective at the location of the receiving plant;

(ii) The pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price;

(iii) The pounds of butterfat in Class II times the Class II butterfat price;

(iv) The pounds of nonfat solids in Class IV times the nonfat solids price;

(v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;

(vi) The pounds of protein in Class III milk times the protein price;

(vii) The pounds of other solids in Class III milk times the other solids price; and

(viii) Add together the amounts computed in paragraphs (c)(2)(i) through (vii) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section; and

(3) For the total quantity of milk received during the month from a cooperative association in its capacity as a handler under § 1000.9(c) as follows:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1124.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month; and

(v) Add together the amounts computed in paragraphs (c)(3)(i) through (iv) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(d) If a handler has not received full payment from the market administrator pursuant to § 1124.72 by the payment date specified in paragraph (a), (b) or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b) of this section, prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer’s milk;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1124.74 [Reserved]

§ 1124.75 Plant location adjustments for producer milk and nonpool milk.

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in § 1124.51 from the Class I price at the plant’s location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§ 1124.73 and 1000.76.

§ 1124.76 Payments by a handler operating a partially regulated distributing plant. See § 1000.76.

§ 1124.77 Adjustment of accounts. See § 1000.77.

§ 1124.78 Charges on overdue accounts. See § 1000.78.

Administrative Assessment and Marketing Service Deduction

§ 1124.85 Assessment for order administration. See § 1000.85.

§ 1124.86 Deduction for marketing services. See § 1000.86.

PART 1126—MILK IN THE SOUTHWEST MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec. 1126.1 General provisions.

DEFINITIONS

1126.2 Southwest marketing area.
1126.3 Route disposition.
1126.4 Plant.
1126.5 Distributing plant.
1126.6 Supply plant.
1126.7 Pool plant.
1126.8 Nonpool plant.
1126.9 Handler.
1126.10 Producer-handler.
1126.11 [Reserved]
1126.12 Producer.
1126.13 Producer milk.
1126.14 Other source milk.
1126.15 Fluid milk product.
1126.16 Fluid cream product.
1126.17 [Reserved]
1126.18 Cooperative association.
1126.19 Commercial food processing establishment.