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## Handling of Milk in Certain Marketing Areas

### Chicago, Ill., etc.; Recommended Decision

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[ 7 CFR Parts 1030-1032, 1038, 1039, 1045, 1050, 1051, 1061-1064, 1067-1070, 1078, 1079, 1094, 1096, 1097, 1099, 1102, 1103, 1105, 1107, 1108 ]

### HANDLING OF MILK IN CERTAIN MARKETING AREAS; CHICAGO, ILL., ETC.

#### Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and Orders

Docket No. and Marketing area	7 CFR Part
AO-101-A27, Chicago, Ill.	1030
AO-170-A14, South Bend-LaPorte-Elkhart, Ind.	1031
AO-313-A3-RO1, Suburban St. Louis	1032
AO-194-A8, Rock River Valley	1038
AO-212-A14, Milwaukee, Wis.	1039
AO-334-A6, Northeastern Wisconsin	1045
AO-339-RO1, Central Illinois	1050
AO-329-A1, Madison, Wis.	1051
AO-327-A2, St. Joseph, Mo.	1061
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AO-105-A14-RO1, Quad Cities-Dubuque	1063
AO-23-A24, Greater Kansas City	1064
AO-222-A12, Ozarks	1067
AO-178-A14, Minneapolis-St. Paul, Minn.	1068
AO-153-A9, Duluth-Superior	1069
AO-229-A8, Cedar Rapids-Iowa City	1070
AO-272-A3, North Central Iowa	1078
AO-295-A4, Des Moines, Iowa	1079
AO-103-A21, New Orleans, La.	1094
AO-257-A9, Northern Louisiana	1096
AO-219-A11, Memphis, Tenn.	1097
AO-183-A9, Paducah, Ky.	1099
AO-237-A7, Fort Smith, Ark.	1102
AO-252-A8-RO1, Central Mississippi	1103
AO-297-A4, Mississippi Delta	1105
AO-304-A4-RO1, Mississippi Gulf Coast	1107
AO-243-A9, Central Arkansas	1108

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in each of the marketing areas heretofore specified.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

#### Preliminary Statement

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was held at St. Louis, Missouri, on January 8-11, 1963, pursuant to notice thereof which

was issued December 20, 1962 (27 F.R. 12773). For the Suburban St. Louis, Central Illinois, Quad Cities-Dubuque, Southern Mississippi (Central Mississippi and Mississippi Gulf Coast) markets, the January 8-11 hearing constituted a reopening of prior hearings on which a proposed order (Central Illinois) or proposed order amendments have been issued. These situations are later discussed under Section III.

The material issue on the record of the hearing relates to the marketing of milk in each of such regulated markets or its supply system from sources not fully regulated under the respective order. This broad issue is subdivided on the basis of the source of such milk and the manner of entry into the following more specific issues:

1. The integration into the regulatory plan of each of the orders of milk not subject to classified pricing under any Federal order which is:

(a) Disposed of as Class I milk directly on routes in the marketing area of such order; or

(b) Received at a plant fully regulated by such order;

2. The application of the regulatory plan of each of the Federal orders to milk regulated under another Federal order which is:

(a) Disposed of directly on routes in the regulated marketing area; or

(b) Received at a fully regulated plant; and

3. Incidental and corollary changes in order provisions.

The Supreme Court of the United States issued on June 4, 1962, its decision in the case of Lehigh Valley Cooperative Farms, Inc., et al., v. United States et al. (hereinafter called the Lehigh decision), invalidating certain applications of the "compensatory payment" provisions of the New York-New Jersey Federal milk order. Official notice is taken of such decision.

Until recently a majority of all Federal milk orders with market pooling contained "compensatory payment" provisions which might be considered applicable in parallel circumstances. By notice issued November 9, 1962, and subsequent suspension actions effective January 1, 1963, with respect to 50 milk orders and March 1, 1963, with respect to 13 additional milk orders, certain provisions of this nature were deleted from all milk orders.

Prior to the Lehigh decision many of these orders prescribed specific, but varied, financial obligations to the pool on milk received from "unregulated plants"<sup>1</sup> at regulated plants or distributed in the marketing area on routes from unregulated plant. Most orders provided that unregulated milk received at regulated plants be assigned to surplus uses to the extent of such uses at the receiving plant. On unregulated milk which could not be assigned a surplus class use a compensatory payment into the pool fund was required. Some orders provided, however, the alternative that the unregulated plant operator with route distribution in the marketing area

could pay into the pool (producer-settlement fund) the difference between his payments to dairy farmers and the total value of his milk classified and computed according to the class price provisions of the order. In short, the unregulated plant operator had the choice with respect to route distribution of paying a compensatory payment on the sales actually made in the marketing area or of paying for his milk (by paying his dairy farmers and/or the pool) the same amount of money as if his plant were fully regulated.

With the issuance of the Lehigh decision it was recognized that certain prescribed obligations were subject to legal doubt. The suspensions were made in the compensatory payment provisions of the orders to minimize the legal questions. These suspension orders removed compensatory payments on unregulated milk (both bulk and route distribution) classified as Class I where the rate of payment provided was comparable to that invalidated by the Lehigh decision and no other option was available to handlers.

The consequence of this action in the South Bend-Laporte-Elkhart and Minneapolis-St. Paul orders was to remove all financial obligation on the part of an unregulated plant on any route distribution in the respective marketing areas. In certain other orders involved in this hearing the suspension reduced the maximum obligation on route sales of unregulated milk from the difference between the Class I price and the surplus milk price to the difference between the Class I price and the order blend price. No change was made in the case of 10 orders which provided for handler election of a compensatory payment at the difference between the Class I price and the surplus milk price on market area Class I sales, or payment to the pool of any amount by which the classified use value of milk receipts at such plant exceeded actual payments to dairy farmers regularly delivering to such plant.

The suspension action removed all payment obligations on bulk unregulated milk (not including in most instances<sup>2</sup> reconstituted milk products) but retained the assignment to surplus class uses to the extent of such uses. In those orders where a payment rate equal to the difference between the Class I price and the blend price was provided in some months, such rate was extended to all months.

Late in November 1962 opportunity was afforded all parties interested in 76 milk orders to submit proposals with respect to the subject of this hearing. Since the problem of reappraising order provisions in light of the Lehigh decision related to all Federal milk orders, a regional hearing was scheduled to provide opportunity, for simultaneous consideration of this problem affecting a substantial number of orders. Proposals relating to one or more of the 27 milk

<sup>2</sup> In some orders where the obligation on unregulated receipts of nonfluid milk products could not be distinguished in the suspension action from the obligation on fluid milk products the obligation on nonfluid milk products was also removed.

<sup>1</sup> Defined below.

orders listed above were received from 59 parties (26 proprietary handlers, 29 cooperative associations or federations of such associations, 2 trade associations, and 2 State agencies). To expedite the purposes of the hearing the specific proposals received were summarized, for purposes of the hearing notice, into major categories each relating to a general type of transaction involving milk not subject to full regulation under the order to be amended.

As previously stated, the hearing dealt generally with two broad subjects: (1) The treatment to be accorded unregulated milk distributed in a regulated market or received at a regulated plant from a plant not regulated by any Federal milk order, and (2) the treatment of milk distributed in a Federally-regulated market or received at a Federally-regulated plant from a plant subject to another Federal order. Section I of this decision is concerned with the problem of integrating milk from unregulated sources into the regulatory plan for each market. Section II deals with problems of assignment to classes of fluid milk products moved between Federally-regulated markets. Section III of the decision discusses incidental and necessary changes in order provisions related to order revisions based upon the findings and conclusions in Sections I and II.

#### Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

**I. Unregulated milk.** Although varied nomenclature is applied in the several orders in defining the separate categories of milk, it will be convenient here to use the general terms "unregulated milk" or "unregulated plant" to describe the general category of transactions which involves milk or plants which are not subject to Federal regulation<sup>3</sup> in any way except for the particular shipment or distribution which enters the orbit of such regulation.

(a) **General basis for order revision.** Milk orders are issued under authority of the Agricultural Marketing Agreement Act of 1937, as amended, primarily for the purpose of establishing and maintaining orderly marketing conditions in the sale of milk by producers to milk handlers. Consumers are to be assured adequate and dependable supplies of milk for which producers are to receive minimum prices related to factors that affect the supply and demand for milk for the regulated marketing area. The basic framework of each order includes a classified price plan, with minimum prices for each class of use, and a pooling system which distributes among producers the values of milk in the various classes.

Under the classified price plan classes of use are established and a different minimum price is established for each class. By this means handlers are required to pay for the milk received from

producers in accordance with the use made of it. In most of the milk orders under consideration two classes of use are established. Class I milk usually includes milk used for fluid consumption in the forms for which milk supplies must meet inspection requirements of health authorities. Class II milk then includes all milk used in manufacturing (surplus) uses. In some orders surplus uses are divided into two or more classes. A higher minimum price is established for Class I milk than for the surplus class or classes.

The classified price system is vital to achievement of the goal of orderly marketing. Under it each handler pays for the milk he receives from producers in accordance with the uses he makes of the milk. The uniform minimum prices established by classes, which are subject to various adjustments, such as for butterfat content of milk used in each class and for the location at which the milk is received from producers, assure equity among handlers. Since milk is priced in accordance with its value in each use, it is economically feasible for handlers to accept, under usual circumstances, all milk delivered by producers and thereby to maintain adequate reserves of milk so that the public will be assured of dependable supplies of milk at all times.

Subject to the various adjustments provided by the Act, the pooling systems of the orders provide a uniform, or weighted average, price, based on class values at minimum order prices, to be paid producers. The Act authorizes this average price to be computed (a) for each handler, to be paid the producers supplying such handler (individual-handler pool); or (b) for all handlers in the market, to be paid all producers in the market regardless of the use made of their milk by the handler to whom they deliver (market pool). Under market pools handlers pay into or draw out of an "equalization" fund the amount by which the classified use value of their milk exceeds or is less than the amount to be paid producers at the uniform price.

Because producers delivering milk to market pool markets may obtain the same uniform prices irrespective of the particular utilization as Class I or surplus milk of the handler to whom they deliver, it is not necessary for the producers to shift among handlers in order to obtain the best price. This accommodates the orderly and efficient utilization of the necessary surplus supply and returns to all producers an equitable share of the returns from the total sales of Class I and surplus milk in the market. All producers thus share the burden of the surplus for the market.

In a substantial majority of markets under Federal regulation market pools are used. The uniform sharing of the market average utilization promotes orderly marketing under a wider variety of conditions than does individual-handler pooling. Market pools now are provided in 23 of the 27 orders involved in this hearing.

In these market pool orders some form of minimum performance requirement is established to distinguish between those

plants substantially engaged in serving the fluid needs of the order market and those plants which do not serve the market in a way, or to a degree, that warrants their sharing—by being included in the pool—in the market average utilization of Class I milk. Such distinction is necessary or else the proceeds of the higher Class I price could be dissipated by including in the pool milk primarily acquired for manufacturing purposes without any obligation on the handler to make milk available for the fluid needs of the market. Unless adequate standards of marketing performance are provided which will determine which milk and plants will participate fully in the marketwide pool funds, the uniform pool price of the market could be depressed to the point that the Class I price would not serve its function of attracting an adequate supply of milk for the fluid needs of the market without being higher than economically necessary.

In this connection it should be noted that the higher prices applicable to Class I milk (which are necessary to assure the consuming public of adequate and dependable supplies of milk) are passed on to the public. It is essential, therefore, in order to share in these funds that plant operators perform marketing functions (i.e., deliver milk to market in specified amounts or proportions) which contribute to providing adequate and dependable market supplies. The pool plant performance requirements (particularly those applying to bulk shipments of milk) are essential provisions of a milk order if it is to attain this statutory purpose of assuring adequate supplies of milk in the most economical manner and in a way that most serves the public interest. The marketing performance distinctions also serve to minimize the effects of regulation on handlers whose sales operations are primarily in other markets by exempting them from full price and pooling regulation of the orders.

Typical pool plant standards are designed to recognize the separate functions of "distributing plants" which process and package fluid milk products and dispose of them for fluid consumption to wholesale and retail outlets or through plant stores, and of "supply plants" which may function solely for assembly of bulk milk to be shipped to distributing plants. For distributing<sup>4</sup> plants, pool plant standards normally require that a substantial portion of the plant's receipts during the current month be sold for fluid consumption and that a smaller but significant proportion be sold in the order marketing area. Supply plant standards provide year-round pooling for plants with substantial shipments of fluid milk to pool distributing plants in the season of short supply, and also provide for pooling on the basis of volume of shipments in the current month. Plants meeting these requirements establish themselves as an integral part of the fluid milk supply system for the marketing area.

<sup>3</sup>Plants which may be subject to some State minimum price regulation are also included in the category of "unregulated plants".

<sup>4</sup>Some orders use difference nomenclature in referring to distributing and supply plants.

While order nomenclature varies somewhat, such distributing and supply plants are usually referred to as "pool plants". Generally, any plant, wherever located, may become a pool plant if it meets the marketing performance standards which at any time are equal for all plants performing the same function. In short, the pool plant provisions are an essential means of assuring the regulated market of adequate and dependable supplies of milk.

It should be emphasized that the pool plant performance standards do not impede the shipment of milk to regulated markets. Quite the contrary, they require milk to be shipped to the market in order to share in the pool funds. They achieve this necessary result by precluding the sharing in the pool funds of plants which do not ship milk in accordance with the prescribed standards. They are thus the opposite of a barrier to the shipment of milk to the market.

Since milk may enter a Federal order market from plants and under conditions which do not meet the pool plant performance standards, milk not regulated by any Federal order may be sold in these order markets. One such way is by direct route distribution of some packaged fluid milk in the marketing area from an unregulated plant. Another is by supplying unregulated milk, either in bulk or packaged form, to pool plants and for such milk to be used by the pool plant for its fluid business. Other sources of unpriced fluid milk products available to handlers fully regulated by an order are from the surpluses of producer-handlers, whose milk is not priced under these Federal orders, and from nonfluid products such as nonfat dry milk, condensed milk or skim milk or butter used to reconstitute fluid milk products.

When such unregulated milk is sold for fluid use in a Federal order market in competition with milk priced and pooled under the order, means for integrating it into the regulatory scheme must be provided. A plant that is not fully regulated (in contrast to one that is) is not required to account for all of its disposition of milk at the established class prices, to return minimum uniform prices to its producers, or to have its records audited, etc. Such plants thus normally would have competitive advantage over fully regulated plants in the disposition of higher value Class I milk in regulated marketing areas. Unless some method is provided for removing such a competitive advantage when unpriced milk is used for Class I sales in a regulated marketing area, inequities would exist among handlers in the sale of milk in regulated markets. This would obviously have such disruptive effects as to negate completely the purposes sought to be achieved by the milk orders pursuant to the basic statute.

As a result of the suspension actions taken because of uncertainties resulting from the Lehigh decision, unregulated milk may now enter many of these order markets under circumstances which tend to disrupt orderly marketing. The compensatory payment provisions sus-

pending from these orders were intended to remove the competitive advantage attached to such unregulated milk. While the Supreme Court ruled that a compensatory payment on nonpool milk as applied in the circumstances involving the New York-New Jersey order was inconsistent with the terms of the Act, the Court recognized, however, that because of the manner in which Federal orders function, "it is quite obvious that under certain circumstances some regulation of such milk may be necessary".

One way to minimize the quantities of unregulated milk entering marketing areas would be to establish pool plant provisions which reduce the degree of marketing performance required. But this would vitiate the effectiveness of the orders in inducing adequate supplies of milk at order prices or would unnecessarily involve in total regulation handlers who distribute only small quantities of milk in the regulated marketing areas. Either of these consequences would render more difficult the attainment of the ends sought by the statute. Consideration is confined, therefore, to remedies involving obligations imposed on the unregulated milk entering the marketing area or its regulated supply system which is unregulated in light of current pool plants performance standards.

There is no way to treat unregulated milk equally with regulated milk other than to regulate it fully at the level of first receipt from producers. This is the stage of the marketing system at which minimum order prices apply. The prices paid farmers for any particular lot, or shipment, of milk cannot be distinguished from those paid for other uses; indeed the average price paid for all milk received at an unregulated plant has significance when compared to the minimum class prices of an order only as the utilization of all such milk is known. Short of full regulation, the treatment of unregulated milk can at best only approach equality of treatment with regulated milk.

The extent to which unregulated milk may have competitive advantage over regulated milk varies substantially, depending upon the individual circumstances affecting the operation of the plant receiving the unregulated milk. On the basis of this record affecting 27 markets, only provisions applicable to the general situations common to all such markets can be adopted. Should there be need in any market for more detailed treatment of unregulated milk from specific types of sources, such matters may be considered further in individual market hearings.

(b) *Packaged route sales from unregulated distributing plants.* This portion of the decision deals with the regulatory treatment of milk distributed on routes in 22 Federally-regulated marketing areas from plants not fully regulated by any Federal order ("fringe" distributors). Three orders (Milwaukee, North Central Iowa, and Memphis), which provide for individual-handler pooling prescribe certain volume exemptions which if not exceeded result in freedom from regulation. The Fort Smith (providing individual-handler pooling) and the

Chicago orders prescribe full regulation for any plant having route distribution in the marketing area.

Two basic proposals were made at the hearing for amending the several market pool orders to minimize, within the Lehigh decision, the competitive advantage which unregulated distributing plants have over pool plants with respect to sales of milk within regulated markets. These were:

1. Payment to the pool of the difference between the Class I price and the order blend price on in-area route distribution in excess of offsetting Federal order Class I purchases; or, in the alternative, payment to the pool of the Class I price less the order blend price or actual cost, whichever is less.

2. Payment to the pool of any amount by which the classified-use value of total milk receipts exceeds actual payments to dairy farmers ("Wichita option"); or, per various proposals, by payment on the volume of milk distributed in the marketing area of (a) the difference between the order Class I and Class II prices, (b) the difference between the order Class I and blend prices, or (c) the difference between the order Class I price and actual cost of the milk.

The majority of witnesses supported a "Wichita" plan<sup>5</sup> with an option of a pool payment at the difference between the order Class I and Class II prices on marketing area sales in excess of any "offsetting" Federal order Class I purchases. It was their position that marketing area route sales by a nonpool plant were the alternative to an otherwise Class II disposition, and that, accordingly, a Class II value represented the appropriate credit on such sales. Other witnesses questioned the legality of such a credit and supported a credit of the market blend price. In general, however, the latter witnesses recognized the probability that their proposal could not be expected to neutralize fully the advantages in the use of unregulated milk and suggested the likelihood of the need for further hearings to consider full regulation of now unregulated plants with route distribution in regulated marketing areas.

The evidence at the hearing clearly established the varied circumstances under which unregulated milk may enter the regulated markets as route sales from unregulated plants. Both proponents and other witnesses appearing at the hearing obviously were hampered in developing proposals because of the uncertainty as to the treatment of other source milk which would be legally acceptable under the Lehigh decision. The need for order amendments which would maintain the effectiveness of the classified pricing and pooling plans which are the basic tools of regulation was of course stressed by all proponents.

<sup>5</sup> The various Wichita plans proposed would provide for a showing (by one means or another) that milk in a "fringe" distributor's unregulated plant has been paid for in accordance with the minimum price provisions of a Federal milk order or for the choice of various pool payments by the "fringe" distributor.

The orders should be amended to provide that the unregulated distributor who disposes of milk on routes in a regulated marketing area should be accorded the following choices as a means of integrating his milk into the general regulatory scheme so that such milk will not have an unduly disruptive effect upon the regulation:

(a) He should be allowed to show that payment for his total dairy farm supply has been at least as much as if his plant were fully regulated. This amount may be paid entirely to his dairy farmers or may be paid in part to his dairy farmers and in part to pool funds of regulated markets;

(b) He may show that he has purchased Class I milk priced under some market pool order in an amount at least equivalent to his total Class I sales within the regulated area;

(c) He may make a pool payment on the quantity of Class I sales made in the regulated market at a rate equal to the difference between the Class I price and the blend price for such regulated market; or

(d) Any combination of (b) and (c).

Distributing plants with route distribution in a regulated market may not meet the pool plant performance standards fixed by the particular order either because of insufficient route sales in the regulated marketing area or because too large a proportion of the milk receipts are utilized for Class II purposes. However, it is usually for the former reason that such plants fail to qualify because generally distributing-type plants use a high proportion of their receipts in Class I.

Ideally, marketing area boundaries are drawn to encompass that territory where the same handlers compete with each other for route (Class I) sales and to eliminate the incidence of overlapping sales area with unregulated handlers. Improvements in refrigeration, transportation and packaging, however, have encouraged expansion of sales areas to such an extent that it is difficult in any region to delineate an area which wholly accomplishes these objectives. Even if such a delineation were initially possible it inevitably must be only a temporary situation. Milk distributors are interested in selling milk and hence continue to expand their businesses geographically to increase efficiency and opportunity for profit.

This presents no particular problem under the order program with respect to the fully regulated handler since he is required to pay for his producer milk receipts on a classified use basis at the specified minimum order prices regardless of where his milk is sold. For each additional unit of Class I sales he makes he must pay the higher Class I price, whether such sales are made in or outside the marketing area. He cannot use milk bought at the lower surplus class price to expand his sales in either the regulated market or in other markets. He must report all receipts and utilization of milk and the payments made to producers, and maintain records which will substantiate such reports on audit. The butterfat tests upon which he pays

producers likewise are subject to verification. He must pay his pro rata share of cost of administration of the order.

The otherwise unregulated distributor is in a substantially different situation, however. He is not required, in the manner of regulated handlers, to purchase his milk on a classified use basis and to pay his dairy farmers any particular minimum price. Normally, he pays a "flat" price without regard to utilization of the milk. The flat price which such a dealer pays is usually at a level which, in relation to competitive conditions in his area of procurement, will obtain sufficient milk for his needs. A dealer who competes with Federal order handlers for his supply is, in effect, in competition with the Federal order blend and usually may procure his supply for an equivalent price. The operator of the unregulated plant thus is in a position to obtain his Class I milk for sale in a regulated market at less than the handler, who is fully regulated by the Federal order.

A means must, therefore, be found which insofar as it is practical to do so will minimize the advantage which an unregulated distributor has with respect to the sale of unregulated milk within a regulated area. The options which it is concluded should be accorded the unregulated "fringe" distributor, taken in combination, are designed to achieve this end.

If the unregulated handler elects to show that he has complied with option (a) above, it will be clearly evident that he has paid at least as much for his Class I sales as a fully regulated handler, for in fact he has paid for all his milk as if he were fully regulated. Such an option accords the unregulated handler competitive parity with respect to his minimum class prices with regulated handlers. The regulated handler is required to pay for all his milk sold as Class I whether inside or outside the marketing area at the Class I price established by the order. So also under this option will the unregulated handler show that he has paid the Class I price on all his sales of Class I both inside and outside the area. To the extent that the unregulated handler has surplus over his fluid milk sales he will likewise show that he has paid the surplus price established by the order which is the same price as the regulated handler pays for his surplus milk. This option provides a meaningful determination of actual pay prices of milk for the unregulated handler based upon comparison with order values.

As earlier stated, this option has been provided in many of the orders previously. Many distributors of unregulated milk in regulated markets have found that using this option is advantageous. This option will particularly accommodate "fringe" distributors who, because of State regulation of milk prices, pay their dairy farm suppliers at least the minimum prices required by the order regulating the handling of milk in the Federal order marketing area where they distribute milk. If for one reason or another, and particularly for competitive reasons, the fringe dis-

tributor necessarily pays for his milk supply as much as if he were fully regulated, this option gives him an opportunity to distribute milk in regulated areas without incurring any additional financial obligations on such milk as the result of the order. At the same time, the fact that he has paid full class prices for his milk will assure that the regulatory plan has been protected.

Some witnesses contended that the operator of an unregulated distributing plant who paid his dairy farmers the full classified use value of milk according to order prices should, nevertheless, pay into the pool fund an amount equal to his sales in the regulated area times the difference between the applicable Class I and blend prices. As previously indicated, the unregulated distributing plant is one which is not sufficiently associated with the regulated market to be eligible for pooling, i.e., to share its sales with regulated plants for the purpose of computing a uniform price to farmers. Such unregulated plants may have Class I sales in excess of the average of the regulated market or they may have a smaller percentage of Class I sales. In either case they need not pay into the pool fund if their payments to dairy farmers are at least equal to the classified use value of milk purchased from such farmers. If this opportunity to make payment to such plant's dairy farmers rather than into the pool fund presents a marketing problem, the standards for pool participation may be reexamined at a later hearing.

The second option—to purchase milk for his marketing area needs from a source fully regulated under a market pool order—also affords the distributor of unregulated milk an opportunity to sell in a regulated area on a basis of competitive equity with respect to such sales. The equivalent of the milk which he distributes in the marketing area would be fully regulated Class I milk. Presumably, he would purchase it on the same basis as any other handler who purchases milk for Class I sales within the regulated market. Again, since the milk would be fully regulated under some market pool order, it would afford adequate protection to the regulatory plan.

Under this option purchases must be limited to those made from plants subject to market pool orders. In the findings set out below with reference to provisions dealing with inter-order transfers of milk, a distinction is made between milk received from a market pool market and from an individual-handler pool market. These findings show that under certain circumstances milk received in a market pool market from an individual-handler pool market may have disruptive marketing consequences and that, therefore, special provisions must be adopted with reference to milk from individual-handler pool markets. The conditions described in these findings with reference to milk from individual-handler pool markets are also the basis upon which it is necessary to exclude receipts of milk from individual-handler pool markets under option (b) and, to provide under this option that only purchases of milk

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from market pool orders may be used to satisfy the option.

Under certain conditions option (c) also would afford to the fringe distributor competitive equity with respect to his sales within the regulated marketing area, and would protect the order from harmful economic consequences. The rate of payment is computed as the difference between the Class I price and the blend price of the market for the month when the sale is made. This rate is a constant for any given location and butterfat test of milk. In essence, the option fixes a value of the sale at the Class I price and assumes payment to his dairy farmer suppliers at the blend price of the market. It also assumes that all milk purchased by the distributor is for Class I use, i.e., that the distributor has no surplus, or reserve, supply.

If the distributor of unregulated milk actually pays as much as the blend price to his dairy farmers and if the milk distributed in the regulated marketing area is not in fact surplus to his normal operations, the payment of a Class I price minus blend obligation on his sales in the marketing area usually will tend to protect the regulation. In the case of regular, everyday distribution of about the same quantities of milk in a regulated area by a distributor of unregulated milk, the supply of milk for such sales normally would be acquired on a regular basis and would not be milk surplus to other fluid operations. In view of the other options afforded the operator of the unregulated distributing plant it may be expected that this option will be selected in those situations in which it is to his advantage. This rate of payment is discussed more fully in connection with receipts of unregulated bulk milk at fully regulated plants.

When the cost (that is to say the opportunity cost) of Class I milk disposed of in the marketing area by unregulated distributors is not less than the blend price established under the order, this payment will result in substantial equity between pool handlers and unregulated distributors. If the cost of such milk is less than the order blend price (either because of a less than blend price payment to dairy farmers or because the milk is actually surplus to the regular operation of the plant), an advantage will be accorded such unregulated distributors relative to fully regulated handlers. Apropos of the latter situation, there was evidence in the hearing record that some unregulated distributors do not in fact pay, and do not need to pay, as much as the blend price for their milk. Also as to some of the regulated markets at least, unregulated distributors sometimes have opportunity to distribute in fluid form milk which is surplus to their normal operations. For example, opportunities exist to obtain contracts for the furnishing of Class I milk to military installations and to other facilities which purchase milk on short-range contracts. These contracts sometimes may be fulfilled with milk which is the surplus of a normal fluid milk operation not under the regulatory program. Where distinct basis can be shown in the evidence of subsequent

hearings for determining that the unregulated milk carries only a surplus value, a payment which will accurately reflect this condition undoubtedly will be necessary to insure fully the integrity of the classified price and pooling plan.

It is concluded, therefore, that each of the respective orders under consideration (Milwaukee, North Central Iowa, Memphis, Fort Smith and Chicago excepted) should be amended to provide that the unregulated distributor with route disposition in the marketing area in excess of minimum exception, but insufficient for full regulation, be afforded the above-stated options. In the case of 12 orders this procedure reduces the amount of the optional compensatory payment computed at the difference between the Class I price and the surplus milk price which is presently provided for with respect to the unregulated distributor's marketing area Class I sales. In light of the Lehigh decision, it is concluded that the evidence on this record is not sufficiently definitive to justify continuation of the larger payment under these orders.

(c) *Milk received at regulated plants from unregulated plants.* When unregulated milk is received by a regulated handler at his regulated plant, provision must be made for its allocation to the total available classification of the regulated plant, and for providing an appropriate rate of payment to the producer-settlement fund on any such milk allocated to Class I. This discussion will consider, for these regulatory purposes, receipts at regulated plants from unregulated plants of fluid milk products which are eligible for distribution in fluid form.

Receipts at a regulated plant from an unregulated plant may be in either bulk or packaged form. The provisions of virtually all the 27 orders now "down-allocate" (i.e., assign to classes in sequence beginning with lowest-priced class) such receipts from unregulated plants whether packaged or in bulk. The Chicago order is a specific exception to this procedure. However, proposals considered at a hearing held in Chicago on May 23-29, 1963, would make extensive changes in the provisions of that order, including revised pooling standards. Revision of the pooling standards could substantially affect the actual or potential quantities of unregulated milk available to pool plants. A separate decision on the Chicago order will be issued at an early date, combining the issues of the May 1963 hearing and the issues considered at the January 8-11, 1963, St. Louis hearing as they relate to the Chicago order. Accordingly, this portion of this decision (as well as the discussion under heading (d) *Producer-handler surplus, reconstituted milk, non-Grade A milk*) relates only to the 26 other orders under consideration at the St. Louis hearing.

A variety of proposals relating to receipts at pool plants of milk from unregulated plants was presented at the hearing. The numerous proposals for continuing to "down-allocate" such receipts call also for various rates of pool payments on the portions of fluid milk products from such sources which are

allocated to Class I. These rates include: The Class I price less Class II price; Class I price less "actual cost" of unregulated milk; Class I price less uniform price; Class I price less Class II price or actual cost, whichever is less; Class I price less uniform price or actual cost, whichever is less; or two or more of such rates in combination. In orders with more than two classes, the lowest classification price (as being more representative of the cost of milk for manufacturing) would be used instead of the Class II price.

The respective proponents of "actual cost" and "surplus" credits to the handler pointed to situations where milk which now is surplus in regulated plants may become disassociated from regulation and thereby be made available to regulated handlers on an unregulated basis. Prices for such milk were described as about equal to the farm price of milk of manufacturing grade. They also indicated the various sources of Grade A milk presently being received at manufacturing-type plants which is available to regulated handlers. It was shown that to give a regulated handler who purchases such milk a credit greater than its actual utilization value, which in some instances would be as low as the surplus value, would provide him significant price advantage over regulated competitors who purchase only producer milk. However, for reasons later set out, this rate is not adopted for general use.

There were several proponents of a rate of payment based on the difference between the Class I price established by the respective order and an ascertained cost of the quantity of unregulated milk disposed of as Class I milk in a regulated market. The different proponents of this approach referred to two different means of ascertaining cost, both of which have serious shortcomings in measuring a rate of payment to be applied uniformly to all purchases of unregulated milk.

One cost approach would be to ascertain the price which the unregulated plant charged the pool handler for a shipment of milk. The inherent weakness in this approach is the community of interest between buyer and seller which would lead to concealment of the facts of the transaction in order to lessen any payment rate. If the transaction were between two units of one company, obviously a simple adjustment in book-keeping could be used to avoid any payment. In order to be sure that the reported price was the true price at which the transaction took place, a most detailed audit of the financial records of both plants would be necessary. Tracing through the myriad records of both plants to verify a transaction which would probably represent a mere fraction of the business at either plant would be very costly in relation to the volume of milk involved.

Moreover, of course, the transfer of milk between fully regulated handlers involves the application of handling charges by the first handler. Hence, a fully regulated handler normally cannot purchase milk from another handler at

the order minimum prices. Likewise, with respect to purchases of unregulated milk it is not appropriate to take a cost figure which includes handling charges and profits of the unregulated first receiver of the milk.

The second approach to the Class I price minus ascertained cost is to go back in determining the cost of milk, to the average pay prices (in contrast to the classified use value) paid to dairy farmer suppliers of the unregulated plant. However, the average price paid to dairy farmers for milk delivered in a specified period which is not based upon the class prices under the Federal order will not be representative of the cost of a quantity of milk sold in a regulated market where a classified price plan operates.

For example, a cooperative association may sell half of its milk in an unregulated fluid milk market for \$5.00 per hundredweight at a price equal to the minimum Class I price set by the order, and sell half of its milk for manufacturing at \$3.00 per hundredweight. The cooperative returns a blend price to its members of \$4.00 per hundredweight. The cooperative can enhance returns to its members by marketing the milk going into manufacturing for any price in excess of \$3.00. Suppose the cooperative finds a buyer in a Federal milk market (where the Class I price is \$5.00 per hundredweight) who will pay \$3.50 for such milk for use as Class I. The 50-cent higher price for its surplus milk would permit the cooperative to pay \$4.25 to members for all milk. Under this proposal, the cooperative's pay price of \$4.25 would be its "cost" of milk. The buyer would make a compensatory payment of \$0.75 per hundredweight (the difference between the Class I price (\$5.00) and the cooperative's "cost" of \$4.25). The handler's total obligation for the Class I milk would be \$4.25 (\$3.50 plus \$0.75). Both parties to this transaction would, of course, gain an advantage. But obviously, the milk order would not be protected for milk could enter the regulated market for Class I sales at less than the Class I price.

Certain other proposals would have the effect of treating a pool plant's receipts from an unregulated plant in the same manner as producer milk received at a pool plant, i.e., the unregulated milk would be charged for (or debited) in the same manner as for producer milk at the receiving plant and the handler would be credited for the unregulated milk at the market blend price. This proposal was suggested as the means for dealing with several sources of milk, both unregulated and regulated. It is referred to as "repooling" and is dealt with more completely under the finding on bulk receipts of milk from other Federal marketwide pool orders. Proponents of this plan stated it would provide more equitable treatment between pool milk and unregulated milk and would provide a means whereby handlers would be able to secure unregulated milk without excessive penalty when milk was needed in the market. They also indicated that additional supplies would not attach permanently to the pool unless the nonpool plant met the order's pooling standards.

The proponent failed to take into account, however, that unregulated milk simply is not subject to the same obligations as apply to regulated milk and that treating only one portion of a plant's output in a manner equal to regulated milk would not adequately protect the regulatory plan.

Another proposal would take into account the type of plant from which unregulated milk was received. It provided that if the unregulated plant did not process or package fluid milk products, receipts from it at a regulated plant would be charged at its classification value under the order and credited at the uniform (blend) price or actual cost, whichever is lower. Another proposal would apply the same treatment whether or not the shipping plant processes or packages fluid milk products. Another proposal was to prorate the receipts of unregulated milk to all uses at the pool plant and to employ the uniform price as the proper credit to the handler with respect to milk so assigned to Class I use. This rate of payment is included in the provisions adopted, and will be discussed in connection with such provisions.

In connection with various other options, it was also proposed that the Wichita plan option of showing that the use value of milk had been paid be provided for integrating into the regulatory scheme bulk milk received at regulated plants. This provision should not be adopted, however.

The conditions which are relevant to sales of packaged milk by "fringe" distributors (who are accorded this option) on the one hand and the receipt of bulk milk from unregulated plants at regulated plants on the other are significantly different. With respect to packaged milk sales by "fringe" distributors, the milk is in the form of Class I products, it is usually a regular and continuing delivery and the "fringe" distributor remains under continuing regulation. Hence, he maintains on a continuing basis the records necessary to ascertaining his sales and receipts of milk and payments to dairy farm suppliers. In contrast, bulk deliveries from unregulated plants have no inherent distinction as either Class I milk or surplus milk. Often the presumption would be valid that bulk milk is the surplus of some unregulated fluid market. Bulk sales are usually intermittent and often unanticipated (if they were not so, they would normally become fully regulated). Because of the intermittent or unanticipated nature of such shipments and because shipment to a regulated market could be only a very small part of the total milk at the unregulated plant, there would be administrative difficulty in ascertaining that all milk has been accounted for in accordance with the provisions of the Federal order. For these reasons, it would be inappropriate to provide with respect to bulk shipments for the option included in the Wichita plan of simply showing that the utilization value of the milk has been returned to the dairy farmers who supply the unregulated milk. Even when a fringe distributor disposes of bulk milk to a fully regulated plant it should

be subject to the same allocation and payment to the pool as other unregulated milk in bulk, as later discussed. The amount of such payment would be credited, however, the same as payments to dairy farmers in showing that the use value of his milk had been paid under the option available to him as a fringe distributor.

The orders should continue to provide that fluid milk products moved from an unregulated plant to a regulated plant shall be classified in a manufacturing class utilization if so reported by the operator of the regulated plant. Milk may be purchased by a regulated plant operator from an unregulated plant either for use in his manufacturing operation or in connection with his Class I requirements. When milk from an unregulated plant is moved to a regulated plant for manufacturing use, the orders presently accommodate this situation by providing that such milk may be allocated to the lowest price class utilization in the regulated plant. This treatment of unregulated milk received at regulated plants should be maintained to encourage the orderly disposal of surplus milk and efficient operation of manufacturing facilities at such plants. Ready access to the manufacturing facilities of regulated plants provides an important service to the unregulated plant operator who has excess milk supplies over and above any fluid milk sales or milk in excess of amounts which can be handled through his own plant facilities. When manufacturing utilization in a regulated plant is insufficient for the assignment of all fluid milk products from unregulated plants to the agreed manufacturing use, the remainder, of course, must be allocated to Class I.

The orders should be amended further to provide that (within limits) unregulated milk received at a regulated plant which is not specifically designated for manufacturing use should be assigned a classification which is pro rata to priced milk received by the operator of such plant. This is provided because classification of bulk milk cannot be determined on the basis of its inherent characteristics as either Class I (i.e., in bottles) or as surplus (i.e., as in manufactured products). Its classification depends upon its utilization by the handler who receives it. Unless the regulated handler accepts the milk for Class II use, a method must be provided for assigning the unregulated bulk milk to classes of use. By assigning it pro rata with priced milk (within limits) it is treated the same for classification purposes as if it were fully regulated milk.

A limit must be placed on the amount of unregulated milk which may share fully a classification assignment with priced milk, however. The receipt of unregulated milk in a regulated handler's operation is always a source of danger to a regulatory plan. Handlers often obtain unregulated milk simply because it is a cheaper source of supply than regulated milk. Unless some limitation is placed on the volume of unregulated milk that may be prorated, a handler with a supply of regulated milk

adequate for his Class I requirements could acquire cheaper unregulated milk to increase his manufacturing uses and this milk would share in his Class I utilization while an equal volume of regulated milk was assigned to the expanded surplus use. This would impair the effectiveness of the regulation.

The limit placed on the amount of unregulated milk to be assigned pro rata with priced milk is such that when 20 percent of all milk in the handler's plants is assigned to Class II, all additional unregulated milk will then be assigned to Class II. While for price-making purposes a reserve of milk on a marketwide basis more or less than 20 percent above fluid requirements may be required depending upon seasonal and other considerations, an individual handler associated with a regulated fluid market (whose main purpose is to furnish Class I milk to the market) will not normally need unregulated milk in amounts which will increase his reserve supply above 20 percent of his Class I sales in any given month. Whenever a handler has a milk supply such that more than 20 percent of the intake of his plants is in Class II, no need exists for such unregulated milk in terms of furnishing a regulated Class I market. Even though a situation could conceivably arise where, because of the disruption of normal supplies, a handler receives milk from unregulated sources in excess of the quantities that may be prorated, the attainment of effective regulation nevertheless requires the imposition of this limit.

It is provided that in assigning unregulated bulk milk for purposes of classification, the over-all utilization of the handler (rather than the utilization at a single plant) shall be used. This is necessary for the same reasons which are set forth later in this decision with respect to receipts of milk from plants regulated by other orders with market pools. Payment at the difference between the Class I and blend price should be made by the receiving handler into the pool fund on the portion of unregulated milk which is assigned to Class I through proration. There can be no question that the Class I price basically should apply to both fully regulated (pool) and unregulated milk used in a fully regulated plant as Class I milk. To attribute any different valuation on the unregulated milk would automatically result in inequity as compared with pool milk similarly utilized.

Although there is no room for doubt as to the need to attribute a Class I value for any milk so utilized (the minuend), the proper credit to be allowed to milk from unregulated plants is not as clear, i.e., what subtrahend should be used in such a payment formula. There is considerable evidence in the record to the effect that in many situations a payment at any lesser rate than the difference between the Class I minimum price and the value of such milk as surplus would not give complete assurance that such milk would not be disposed for fluid use in the marketing area at an unwarranted price advantage over producer milk similarly utilized. Much of the milk from unregulated plants commonly is

purchased from dairy farmers on a flat price basis without regard to use classification. Although most of the milk so purchased is processed in the unregulated plant or is disposed of for local distribution from such a plant as fluid milk for other markets, such a plant will experience the same operational problems of daily and seasonal excesses as do regulated plants.

This frequently leaves excess milk at such plants which is truly surplus to the normal fluid needs of those plants. This situation is accentuated at certain times of the year when there are characteristic seasonal increases in the production of milk without corresponding increases in the demand for milk. If it were not for the sale in the regulated market, such milk would have no higher value to the plant operator than its surplus value. In such circumstances, the operator of such a nonpool plant, including the fringe distributor, has great incentive to "dump" his surplus milk into the marketing area or its supply system at any price higher than the surplus, or Class II, value and thereby obtain a competitive advantage for such milk over producer milk. Pool handlers cannot similarly convert otherwise surplus Class II milk into Class I utilization without accounting to the pool essentially at the full difference between these two utilizations, i.e., they account at Class I rather than Class II. There would then appear to be substantial justification for the same rate of charge against milk from unregulated plants obtained and used in similar circumstances.

It is concluded, however, on this record and at this time and in the light of the decision of the Supreme Court in the Lehigh Valley case, and because of the administrative difficulty in determining whether particular milk from an unregulated plant utilized as Class I in any of these markets actually had only a surplus value or cost at source, that the charge should be limited to the difference between the Class I price and the marketing order blend price, both as adjusted by the same butterfat and location adjustments applicable under the order to fully pooled and priced producer milk similarly situated, delivered and used. Although the use of the blend price as the subtrahend will not assure complete removal of the minimum price advantage which may exist for some milk for the reasons just stated, it nevertheless will serve to minimize this advantage in such cases, and generally should be an equitable means of providing a reasonable measure of protection to the regulatory plan. If it appears that such payment is not protecting the regulatory plan, then on the basis of specific evidence another rate of payment or another plan will need to be devised.

As a means of carrying out the equalization provided by market pooling, regulated handlers are required to pay this minimum blended price to their own producers and, in addition, are required to pay to the producer-settlement fund the full difference between the Class I price and such blend price on all pool milk classified as Class I because of its

fluid use in the marketing area. Unregulated milk similarly used as Class I milk by a regulated handler likewise should carry a payment to the producer-settlement fund at least at the same rate as that required of pool milk. If the handler buys pool milk at a price in excess of the blend price, he receives no credit for this excess payment in accounting to the fund. Neither should he receive credit for any amount paid for unregulated milk in excess of the blend price. Both the pool milk and the unrefined milk therefore should be credited at only the blend price in accounting to the pool.

These payments are not unfair or burdensome to the dairy farmer supplying the unregulated plant, whose milk is used as Class I milk by a Federally regulated handler. The allowance of a credit to milk from unregulated plants used as Class I by the regulated handler at the blend price level will provide opportunity to the unregulated plant operator to pay his dairy farmers at least the blend price on these Class I sales. The order cannot, of course, guarantee to the dairy farmer that his purchaser in fact will pay this full blend price to him.

The order must contain provisions of this kind which adequately relate to the total scheme of regulation milk received by regulated handlers which is not subject to pooling. Otherwise, the very existence of an order with its market pooling concept may establish the condition which makes impractical the attainment of the regulatory objective of stabilizing the market in the manner prescribed by the statute. Consequently, the Secretary must protect, to the extent consistent with the Act, the regulatory plan in any marketing area against defeat or impairment because of the introduction into the marketing area in this way of milk from unregulated sources which is not subject to full regulation.

A number of States have programs for establishing prices payable to dairy farmers for milk delivered to processors. These programs generally provide for classification of milk for pricing purposes and for the distribution of returns to dairy farmers on an individual-handler utilization basis. Most of the States do not attempt to apply their pricing to bulk milk which is disposed of outside specifically regulated marketing areas. As a consequence, milk which is surplus of a State regulated fluid milk operation may become available for distribution within a Federally regulated marketing area for Class I use. Because the evidence on this matter referred to potential sources of such milk rather than to actual sources, a pool payment at the difference between the blend price and the Class I price rather than at the difference between the Class I price and the Class II price is concluded to be appropriate at this time.

There may be instances also where a distributor is subject to State milk control and pays the State minimum price on all of his receipts of milk including some that is assigned as bulk Class I in a Federally regulated market. The method of assignment and rate of pool payment applicable to other unregulated



milk must also be applied to this source of "unregulated" milk for the same reasons previously set forth even though the State regulated distributor may have paid a price for the Class I milk disposed of in the Federal order market that was higher than the blend price established by the Federal order.

The proposed treatment of bulk milk received at a pool plant from unregulated sources necessarily differs from the treatment to be accorded milk which is regulated under the terms of another Federal order.

Under the plan here proposed for bulk unregulated milk, such milk will be assigned within limits pro rata to the regulated milk of each handler. A payment into the pool will be made at the difference between the Class I price and the blend price for the market where the pool plant is regulated on that quantity assigned to Class I. No rebate will be made on the milk assigned to Class II. This method is necessary to protect the regulation from the undermining effects of unregulated milk. If a rebate were to be made on unregulated bulk milk assigned to Class II, the order itself would provide a subsidy which would encourage the introduction of surplus unregulated milk into the regulated system. Moreover, there is no assurance as to the prices paid, or the opportunity cost of, unregulated milk when it is received at a regulated plant. Consequently, the problem with unregulated milk is not to assure equality of treatment with regulated milk for this is, in any event, impossible except as unregulated milk may become fully regulated.

On the other hand, the problem of dealing with regulated milk from other orders is one of assuring complementary treatment of milk under both orders. Thus the different measures which apply to the unregulated and regulated milk are based on the different problems which each presents for the regulatory program.

(d) *Producer-handler surplus, reconstituted milk, non-Grade A milk.* Certain milk by its very nature must be treated as surplus when received at pool plants regulated by these Federal orders and it therefore must be assigned a surplus value. One such source is milk received, in either bulk or packaged form, from a producer-handler (under any Federal order). Another source is milk produced by the reconstitution to fluid form of manufactured dairy products, such as fluid skim milk made by the addition of water to nonfat dry milk. Still another source is milk of manufacturing quality (non-Grade A milk) which is not eligible for disposition for fluid consumption in the market. As to milk from these sources, therefore, a pool payment at the difference between the Class I price and the surplus price must be required of the receiving handler when such milk is allocated to Class I, following "down-allocation" to the extent it can be absorbed in lower priced uses.

Under the present Federal orders in each of these markets, the producer-handler is essentially exempt from regulation. He retains for himself the full return from his sale of milk on routes

in competition with pool handlers. That is to say, his Class I sales are not pooled along with those of all producers whose milk is sold by pool handlers. Producer-handlers generally are engaged only in a Class I milk operation and normally do not maintain facilities for processing manufactured milk products. But from time to time, and particularly during the flush months, they (along with producers generally) produce milk in excess of their Class I needs. This is surplus milk and it must be disposed of through some outlet other than the producer-handler's regular facilities. Such milk is available for Class I use at pool plants, and, in view of the producer-handler's limited capacity for utilizing surplus, may be obtained by pool handlers at prices approximating the order surplus class price.

The exemption of the producer-handler Class I sales from market equalization is based on the principle that the producer-handler will accept the lower returns from his own surplus. Hence, it would not be appropriate to allow the receiving handler credit from the pool at more than a surplus price for any milk he receives from the producer-handler. In individual-handler pool markets, this is achieved by down-allocation of the milk. In market pool markets, if milk received at a pool plant from a producer-handler is, in any event, assigned to the pool plant's Class I disposition, the pool handler should be obligated to pay to the producer-settlement fund at the rate which is the difference between the Class I price and the surplus class price. Inasmuch as a producer-handler's appropriate competitive relationship with other handlers and with other producers (and hence the basis for the exemption of producer-handlers from pricing and pooling) depends upon the producer-handler assuming himself the burden of his own surplus, an equitable relationship among the several groups would not be achieved if a producer-handler were allowed to dispose of his surplus and obtain the uniform price (either market or handler) for such surplus. Also, as long as the producer-handler has the advantage of enjoying the full benefit of his own Class I sales customarily made on his own distribution routes, without pooling them with sales of producer milk, he should not also receive Class I benefit from a pool, at the expense of producers, for any of his milk which he is unable to sell in such way. Obviously, surplus milk purchased from producer-handlers operating under another order has the same potential for creating disorderly marketing as surplus from producer-handlers operating under the same order and, consequently, no distinction in treatment for such milk should be provided.

The orders should provide therefore that milk received from producer-handlers at a pool plant should first be assigned to surplus milk at the pool plant and if any is then assigned to Class I, a payment at the Class I-surplus price difference should be applied. Such rate of payment on receipts by Federally-regulated handlers of milk from producer-handlers was ratified by

Congress at the time provisions of the Agricultural Adjustment Act of 1933, as amended in 1935, authorizing the issuance of milk orders, were reenacted by the passage of the Agricultural Marketing Agreement Act of 1937. During the period between August 24, 1935, and June 3, 1937, the effective date of the latter Act, six Federal milk orders were issued under such Agricultural Adjustment Act. Two of such milk orders (Greater Kansas City, Missouri, and Fall River, Massachusetts), placed in effect during this period, contained provisions requiring handlers who used bulk milk received from producer-handlers in other than the lowest-priced classification to pay the difference between the class use price and the lowest class (surplus) price for such milk as part of the handler's total obligation for milk. Such payment was distributed, together with the classified value of producer milk of the handler, through the market pool.<sup>7</sup>

A surplus value likewise is properly assigned to reconstituted milk (the result of combining, for instance, nonfat dry milk or condensed milk with water). The products used in such reconstitution process are made from milk which always carries a manufacturing, or surplus, value. Producer milk used to produce such products is priced as surplus under each of these Federal orders. Since the milk used to produce these products is originally priced at surplus, or manufacturing, milk values, payment into the producer-settlement fund at the difference between the Class I and surplus price is necessary to insure price parity with producer milk when reconstituted milk is used in Class I. No recognition should be given to processing costs involved in the manufacture of the products derived from unregulated milk and used in such reconstitution, since similar costs would be incurred in processing producer milk into such products.

Nonfat dry milk and condensed milk also may be added to fluid milk products to increase the nonfat solids content thus making so-called "fortified" fluid milk products. The incentive for handlers to use nonfat milk solids to fortify fluid milk products arises from the specific

<sup>7</sup> Official notice is taken that such payment was provided for in these orders in accordance with the provisions of section 8c of the Agricultural Adjustment Act of 1933, as amended on August 24, 1935, which provisions were renumbered as section 608c upon enactment of the Agricultural Marketing Agreement Act of 1937, on June 3, 1937.

<sup>7</sup> U.S.C. section 672, which contains the codified language of section 4 of the Agricultural Marketing Agreement Act of 1937, as amended, states in paragraph (a): "Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to or any provision of, or any act of the Secretary of Agriculture in connection with any such agreement, license or order which has been executed, issued, approved, or done under sections 601-608, 608a, 608b, 608c, 608d-612, 613, 614-619, 620, 623, 624 of this title, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed."

demands of consumers. The increased emphasis on low-fat diets and the high nutritional value of nonfat solids in relation to their weight have contributed to the increased demand for added nonfat solids in fluid milk products. Such products are distinguished from reconstituted products, however, in that the resulting volume of fluid product is not increased by the addition of water.

In 13 of the orders (including that proposed for the Central Illinois order) for which amendments were considered at this hearing, the essential difference in the economic value of milk solids used to fortify fluid milk products versus solids used for reconstitution is recognized. Based on the record of prior hearings, recommended decisions have been issued to recognize this distinction in the Suburban St. Louis and Mississippi Delta orders and in the consolidated order for the Central Mississippi and Mississippi Gulf Coast marketing areas. This is usually accomplished by classifying as Class I the volume actually disposed of as either reconstituted or fortified milk. With respect to reconstituted milk, the skim milk equivalent of the solids used are thus accounted for in Class I; with respect to fortified milk, Class I accountability is limited to that which would apply to an equal volume of unmodified product, and the skim milk equivalent of the added solids is classified as surplus. The Class I and surplus uses of nonfat milk solids should likewise be distinguished in the ten orders (South Bend-LaPorte-Elkhart, St. Louis, Quad Cities-Dubuque, Ozarks, Minneapolis-St. Paul, Duluth-Superior, Cedar Rapids-Iowa City, Des Moines, North Central Iowa, and Paducah) which now classify the entire fluid skim milk equivalent of fortified fluid milk products in Class I. The notice of hearing provided for the consideration of assignment of various types of receipts to classified utilization. In the case of fortified products under these orders, the volume by which Class I sales are increased unquestionably relates to the nonfluid products used for fortification. Such products could be assigned first to this Class I volume and then to the surplus class of use. The same result can be obtained by limiting the Class I charge on fortified products to that which would be made for an equal volume of unfortified products. Nonfluid products, then, will be uniformly assigned first to the surplus class, with a pool payment at the difference between the Class I and surplus prices on any amount thereof assigned to Class I. Limitation of the Class I volume as described above avoids any payment with respect to use in fortification.

Milk of manufacturing quality is not usually eligible for fluid (Class I) uses under the requirements of the health authorities in the respective markets. In certain dual-purpose plants, however, such milk could find its way into Class I in the regulated plant. The appropriate value which attaches to such milk is the surplus price because such price accurately reflects its value as manufacturing milk only. The manufacturing value is the price which processors pay

for this quality of milk. Receipts at a pool plant of manufacturing quality milk therefore should be assigned first to use in the surplus class. But should any manufacturing quality milk be assigned to Class I, a pool payment at the difference between the Class I and the surplus price likewise would be necessary to remove the competitive advantage this milk would have in relation to producer milk.

*Milk received at handler pool order plants from unregulated plants.* The findings made elsewhere in this decision in connection with prescribing the allocation of milk received from an unregulated plant at a regulated plant are equally applicable under market pool and handler pool orders. It is not necessary, however, to provide for compensatory payments in the handler pool orders on such receipts from unregulated plants which are allocated to Class I. This is because a plant becomes fully regulated under individual-handler pool orders by shipping a relatively minor portion of its milk to a regulated plant. Because very little unregulated milk can be received in such markets the effectiveness of regulation under individual-handler pool orders is adequately insured without pool payments.

*II. Milk received from plants under other Federal orders.* This section of the decision deals with the regulatory treatment to be given under each of the orders to fluid milk products, both packaged and in bulk, which, in rather limited quantities, are received in the respective market from plants regulated by other Federal orders. Such fluid milk products may enter the regulated market for use or disposition either directly on wholesale or retail routes extending from the plant in the first market where the milk was processed, or through plants regulated by the local order. When such fluid milk products are received at locally-regulated plants, the regulatory problem is primarily one of allocating such receipts in relation to producer milk at such plants under the milk classification plan.

For reasons previously stated it is contemplated that a separate decision on the Chicago order, containing the issues of a May 1963 hearing and issues applicable to the Chicago order at the January 8-11, 1963, St. Louis hearing, will be issued at an early date. Accordingly, recommendations set forth in this portion of this decision are not applicable to the Chicago order except insofar as conforming changes in that order are required to effectuate the recommended changes in the transfer provision of other Federal orders.

At the present time the Chicago order provides that interorder receipts be assigned in the comparable class in which classified under the transferor order and interorder shipments are classified as Class I to the extent of Class I utilization in the transferee plant. Under the conclusions hereinafter set forth interorder transfers would be classified under the originating order on the basis of assignment under the transferor order. To implement such conclusions it is necessary in the case of

packaged transfers, to amend the Chicago order in the identical manner in which the other orders are amended. In the case of bulk interorder receipts provision is made for a pro rata assignment at the same step in the allocation procedure at which such receipts are presently assigned to provide a specific classification to be passed back to the originating market. In addition the classification of interorder shipments would be based on assignment under the transferee order rather than the Class I classification as presently provided.

Sales of regulated milk, bulk or packaged, from one Federal market to another are small in relation to all regulated Class I sales. In the aggregate, route sales are the largest category of intermarket movements, but based on October 1961 data (the month for which data were available in the record) they constitute, for all such markets, only 3.3 percent of all regulated packaged disposition. Intermarket sales of bulk milk to plants represent only 1.5 percent, and intermarket plant sales of packaged milk are only 0.3 of one percent, of all packaged disposition.

(a) *Route disposition of packaged fluid milk products.* For the markets hereunder consideration route sales represent a significantly greater proportion of interorder movements than for Federal orders generally. Notwithstanding in the majority of the markets here covered the amounts involved tend to be relatively small.

During October 1961 seven markets (Minneapolis-St. Paul, New Orleans, Northern Louisiana, Milwaukee, Chicago, Duluth-Superior and Cedar Rapids-Iowa City) had no interorder receipts or interorder receipts which constituted less than one percent of the route distribution of locally regulated handlers. Of the remaining 18 markets (statistics were not available for Madison and Central Illinois is not yet under regulation) only St. Louis had significant receipts from other Federal orders as bulk milk. Otherwise route sales were the only significant form of interorder receipts. For seven of these markets (Northeastern Wisconsin, South Bend-LaPorte-Elkhart, Suburban St. Louis, Quad Cities-Dubuque, Mississippi Delta, Central Mississippi and Fort Smith) the volume of interorder route sales was in excess of 10 percent but less than 20 percent of the total packaged disposition of locally regulated handlers. In Rockford-Freeport (now Rock River Valley) interorder route sales actually exceeded the total packaged disposition of local handlers.

A number of proposals dealing with intermarket movements of fluid milk products under Federal regulation were introduced at the hearing.

Most proponents advocated making no change in the present method employed under the several orders hereunder consideration of permitting route sales of packaged fluid milk products originating from fully regulated plants under another Federal order to remain free of price obligation in the transferee market. There were no specific proposals offered for changing the existing procedure.

The present procedure for treating intermarket route sales in the markets hereunder consideration, which is proposed to be continued, returns the full Class I price to producers in the market of origin, which market both furnishes the milk and carries the reserve supply associated with the sale. Such procedure treats the milk, for classification and minimum (order) pricing purposes, in the same manner as it would be treated if sold by the handler on routes in the market of origin or to route outlets in an unregulated area.

All the costs associated with the preparation of the milk for this highest value, or Class I market, including processing, packaging, and intermarket transportation, have been incurred upon arrival of the fluid product in the second marketing area. This has been an important consideration underlying general recognition within the industry that fluid milk placed in consumer packages is intended for, and as a practical matter is used (except for minor quantities in route returns) in, the Class I market.

It is concluded that the procedure for pricing intermarket route distribution of packaged Class I milk only in the market where it is received from producers and packaged has promoted orderly marketing and should be continued. In all cases the transferee-market order should impose only the obligation of a report to the market administrator.

(b) *Plant receipts of packaged fluid milk products.* Packaged fluid milk products may be moved also from a regulated plant under one order to a regulated plant under another order from which it then is distributed on wholesale or retail routes. Such movements require a method of class assignment or allocation under the order for the second, or receiving, market as part of the procedure for determining the class utilization of producer milk priced by such order. Several of the hearing proposals dealt with the treatment to be given to the class assignment, or allocation of such packaged products.

One proposal, widely supported at the hearing would allocate packaged interplant transfers to Class I in both the shipping and receiving markets. A variation of this proposal would provide a "surplus" allowance for route returns ranging between two to five percent of the shipment. Under both proposals the milk would be priced in the shipping market.

Several proponents would allocate packaged intermarket shipments to Class II if the same product item was packaged in the same type container in the transferee plant. A variation of this proposal would pool those receipts in the receiving market. Still another proposal would provide a Class I classification only to the extent that an equivalent back shipment of bulk or packaged Class I milk occurred between the two markets. Under all proposals similar classification treatment would be applied in both the receiving and shipping markets.

The quantity of packaged fluid milk products moved from plants regulated under one order to plants regulated under another are much smaller than inter-

market route sales. In only three markets (Suburban St. Louis, 2.7 percent; North Central Iowa, 2.4 percent and Cedar Rapids-Iowa City, 0.7 percent) were plant receipts of packaged milk as much as one-half of one percent of the total route disposition of local handlers. Interplant movements usually are made to avoid installing duplicate processing equipment in nearby plants. Most of the orders here under consideration "down-allocate" packaged milk so moved on an interplant basis. It is possible that "down-allocating" such packaged receipts in October 1961 may have been a deterrent in some markets to such movements, if moved long distances, or if priced as Class I milk in the market of origin.

Whether such movements are great or small, the essential character of fluid milk products moved in packaged form between regulated markets is the same whether the shipment comes to rest at a milk plant or moves directly on routes to consumers. Indeed, a handler can avoid the plant receipt by providing storage facilities at a location other than his milk plant. It is undesirable and unnecessary to encourage the development of marketing facilities with no purpose other than to avoid the regulation.

The order should provide for the assignment to Class I (i.e., to be deducted from gross Class I milk in the receiving plant) of 98 percent of packaged fluid milk products moved through a plant in the second market. The remaining 2 percent should be assigned to the surplus class. This will provide essentially the same classification and pricing treatment to such milk as is applied to the quantities moved on an intermarket basis for direct route disposition. While not all markets supported an assignment to the lowest price class of a small allowance for route returns, it was argued by some proponents that such an allowance would be a safeguard against the possible "over-assignment" of milk to Class I in the originating market (i.e., the assignment to such market of a transferred quantity which is greater, from a practical standpoint, than normally can be disposed of as Class I in the second market). Since it is reasonable to expect some route returns will be associated with intermarket transfers just as there are in connection with milk locally processed in the receiving market, a small allowance of two percent for such returns, which must fall into surplus use, should be included in order to avoid such over-assignment in Class I.

It is concluded; therefore, that the allocation provisions in each of the orders here under consideration should be amended to provide that packaged Class I products received at a regulated (pool) plant in the transferee-market which are fully classified and priced as Class I milk under any other Federal order shall be assigned in the receiving plant as follows: (1) 98 percent of such packaged receipts to Class I milk, and (2) 2 percent of such packaged receipts to the lowest-priced class utilization. Such assignment procedure should be employed whether the milk originates in a market

with a market pool or individual-handler pools.

(c) *Receipts of fluid milk products in bulk.* The classification and assignment of bulk fluid milk products moved between regulated markets likewise requires appropriate modification to insure more equitable application of regulation in each market with respect to all milk entering the market whether from producers, from sources not regulated under Federal orders, or supplied from milk classified and priced under some other order issued pursuant to the Act. Such methods of assignment should distinguish between bulk shipments which originate at a plant under a market pool order and at plants under an order with individual-handler pools.

With respect to intermarket shipments of fluid milk products in bulk, most proponents advocated permitting a "surplus" classification (usually termed Class II milk) under both orders whenever the parties involved agree that the shipment is for manufacturing use in the second market. They said this would aid the orderly disposition of surplus milk especially in markets which have little or no manufacturing facilities and in light of the agreed classification such milk obviously is transferred only for manufacturing purposes. It, therefore, should be classified as surplus under both orders.

There was widespread support also for identical classification treatment in both the shipping and receiving markets of any and all intermarket transfers but the proposals for obtaining identical classification varied. One proposal would give the receiving handler the options of classifying interorder bulk shipments (a) prorata on the marketwide utilization, (b) prorata on the receiving handler's utilization, or (c) on any combination of Class I and surplus he might elect.

Another proposal would allocate first to the surplus class use in the receiving plant, bulk receipts from other Federal orders. Other proposals would (1) classify the transfer on the basis of the classification provisions of the shipping order, (2) provide for classification by agreement and (3) provide a Class I classification up to the amount of offsetting Class I movements from the receiving market.

A number of proposals would provide for pooling the shipment in the receiving market. The milk would be assigned prorata to the utilization of the receiving plant. The receiving handler would be obligated to the pool for the classified use value of the milk and would be credited with the higher of the uniform prices in the receiving or shipping market. The shipping handler would account for the milk on the classification reflected by the receiving market's uniform price. A variation of this proposal would have the shipping handler account for the milk on the basis of the classification reflected by the receiving market's uniform price or the actual price received f.o.b. shipping plant, whichever was less.

Other proponents would provide for classification in the shipping market of

interorder bulk shipments on the basis of the marketwide utilization percentages of the receiving market and at the shipping market's class prices with the receiving market handler being charged the classified use value of the milk and receiving a blend price credit. A counter proposal would allocate bulk interorder movements prorata with producer milk in the receiving plant (transferee-market) and classify and price the transfer on this utilization in the market of origin.

The present orders in these markets provide a variety of methods by which bulk milk is classified on transfer to another regulated market. To be aware of the current basis for classifying intermarket movements, it is necessary to know how the milk is treated for classification purposes in the originating market as well as in the receiving market. For example, bulk milk shipped on an interplant basis from one regulated market to another may be classified under the order in the transferor market in accordance with assigned classification under the order of the receiving market as in the case of the Northern Louisiana, Memphis, New Orleans and the Mississippi orders. Under the South Bend-LaPorte-Elkhart, Northeastern Wisconsin, St. Joseph, and Paducah orders, however, such bulk shipment would be classified in the lowest-priced class to the extent equivalent uses were available in the receiving plants against which to assign the shipment. The proposed Central Illinois order would provide a Class I classification on such shipment unless allocated to another class under the transferee order. The Chicago order provides that bulk shipments of milk to an other Federal plant shall be Class I up to the extent of such use in the transferee plant. Under the remaining fifteen orders milk transferred to non-pool plants within specified distances (including plants under other orders) is classified as Class I milk unless used in the lowest-priced class is claimed and can be proved. If milk is transferred to a nonpool plant located more than a stated distance from the marketing area such milk automatically is classified as Class I milk.

As a transferee market, each of the orders other than Chicago, South Bend-LaPorte-Elkhart, Minneapolis-St. Paul, North Central Iowa and Fort Smith, currently allocate the bulk shipment from another regulated market to the lowest-priced class to the extent total use in such class will absorb the receipt (following the allocation of unregulated milk), even in cases where the originating market order classified the entire shipment as Class I milk. Certain of these orders provide for the allocation of milk classified and priced as Class I in the originating market following the allocation of receipts not so classified and priced. The Chicago order provides that the receipt be subtracted from the comparable class in which classified under the transferor order. The other four orders allocate other source receipts to the lowest available use class, making no distinction between unregulated and

federally regulated milk. The Minneapolis-St. Paul order provides in addition, however, that if any other source milk is assigned to Class I, such assignment first shall be made to receipts from other Federal order plants.

As markets and the order program widen, bringing individual regulations closer together, such a variety of methods for classification and assignment in current use in transferor and transferee-markets obviously cannot achieve the important objective of appropriately integrating into the respective regulatory schemes in a uniform and consistent way intermarket shipments of regulated milk.

(1) *Surplus classification by agreement.* The orders should provide (as most of them in effect do provide) for assignment to the surplus class under each order of bulk milk received from another order plant when the respective handlers agree to such classification and so report to the market administrators. Milk is frequently transferred from one regulated market to another for intended manufacturing use. The manufacturing facilities available in the regulated transferee-market may be the best available facilities to absorb the disposition of another market's surplus. The wide coverage of the milk order program over the nation results inevitably in important manufacturing facilities being regulated as pool plants under market orders. In order to permit the maximum use of manufactured facilities in these regulated markets, handlers in transferee-markets should be permitted classification in the lowest-priced use when they receive bulk milk on agreement for manufacturing. In such instances, a higher classification would result only when it was found, on verification, that some portion had not been made into manufactured products, and therefore would be reclassified in accordance with use in a different class. The orders should be amended accordingly.

(2) *Application to bulk receipts from market pool orders.* As to milk imports from other regulated markets which may not be so classified by agreement, a decision is necessary on the inclusion in the several orders of an acceptable method of classification assignment in the transferee-market, and on the appropriate classification to be returned to producers in the shipping market's pool. The earlier portions of this decision set forth a plan for appropriately integrating unregulated milk into the regulatory scheme in each market. This plan recognizes that there should be no "trade barrier" to the sale of unregulated milk in regulated markets. By the same token, free flow of milk among markets cannot be a principle to be applied to unregulated milk on entry into a regulated market and not be applied to milk under regulation, especially when there is no danger of regulatory impairment in the receiving market from regulated milk which already is priced and pooled under the same statutory standards.

The various hearing proposals earlier set forth had as their main purpose to eliminate the effects of down allocation. Although these proposals varied somewhat, they would eliminate situations

where milk would be classified as Class I in the shipping market but assigned to Class II in the receiving market by providing the same classification for milk in both markets.

One proposal, supported by a number of cooperatives, would provide for the so-called "repooling" of all intermarket shipments (in bulk or packaged). This proposal was referred to earlier in its application to receipts of unregulated milk. Although this measure was suggested for dealing with a number of sources of milk (both unregulated and from other orders), the main emphasis was on its application to receipts of bulk milk from other order plants. For that reason we deal with it at this point. Nevertheless, the consequences which would follow from its adoption for bulk milk from other order plants would also follow on packaged shipments from other orders, if it were applied to such shipments.

Essentially, this proposal in its application to bulk milk would price and pool in the receiving market, at order prices for that market, all such milk from a plant subject to another order. A credit would be allowed the handler who received the milk on the basis of the blend price in the receiving market.

Proponents stated that the repooling proposal would promote equity in pricing among handlers, in that all milk would enter the marketing area on the basis of prices applicable to that specific area. They said also that equity in pooling would be provided. It was pointed out that the blend price of the receiving market is the instrument provided by the order to attract an adequate supply of milk for the market, and that the blend price credit proposed with respect to milk from other orders would offer the same incentive for other order milk as is offered for producer milk. In fact, the principal virtue claimed for the repooling proposal was that it would treat milk from other orders exactly the same as local producer milk.

In effect, the repooling provisions would assign to any shipment between order markets to which the provision applied the marketwide utilization as Class I and surplus of the market of receipt. Hence, if a receiving market during a particular month had a utilization of 60 percent of all its milk in Class I and 40 percent as surplus, then any such shipment to any handler from another order market would arbitrarily be assigned a utilization of 60 percent Class I and 40 percent surplus. A handler who was purchasing milk from another order solely for use as Class I thus would have the milk classified 60 percent Class I and 40 percent surplus. The receiving handler would make a pool payment in his own market to account for the difference between his own utilization value and the marketwide utilization (blend value) which had been assigned to the shipment. The assigned utilization would be passed back to the market of origin and accounted for by the shipping handler.

Class I prices normally vary from market to market by approximately the

cost of transporting milk<sup>1</sup> from other Federal order markets which act as alternative sources of supply. The structure of prices is a natural consequence of the application of the supply-demand pricing standard of the statute to Class I prices in individual markets. Thus, a handler who needs milk for Class I use may purchase such milk from another lower-priced market which stands as an alternative source of supply and his cost for such milk will be approximately the same as if he had purchased locally regulated milk.

Surplus prices, however, are generally at about the same level in all markets. Therefore, the cost of surplus milk purchased by a handler from another market is greater than for local milk by the cost of transportation from the other market. In the case of the handler in the market with 40 percent surplus who purchases milk needed for Class I use from another market, his actual cost of milk under the repooling proposal would be the Class I price plus the cost of transporting the 40 percent which would be classified as surplus.

The repooling provision therefore would burden a shipment to the degree that a Class II assignment is applied. Since the marketwide utilization must be assigned to such a shipment, there is no way by which a handler may avoid this burden. This would act as a deterrent to the movement of milk between markets.

The repooling provision also would have the effect of returning to the producers regularly supplying the market of receipt the differential income between the blend price of the market and the Class I price on all receipts of milk from other orders assigned to Class I. Thus, even though regular producers do not furnish all the milk for Class I use in their own market, they nevertheless would receive the income benefit from all of the Class I sales. In such a situation, they would be relieved of the economic incentive of adjusting their own terms of sale in order to gain the benefits of Class I sales in their own market. The isolation from competitive incentives which thereby would result could encourage the maintenance of misaligned Class I prices among Federal order markets.

The repooling provision would thus interfere with the effective application of the supply-demand pricing standards of the statute. For these standards depend for their effective application on the free flow of milk from all sources in response to price incentives. Inhibiting unduly the flow of milk from any regulated source would mitigate the effectiveness of supply responses upon price levels in regulated markets. Indeed, the minor deterrent to intermarket transfers of bulk milk which are presently occasioned by Class I assignment in the shipping market and then Class II assignment in the transferee market is inconsequential as compared to the repooling proposal. This is so because, under present provisions, the transferee han-

dlers can avoid Class II assignment of such receipts by arranging his milk plant operations so that he has little, if any, Class II milk. He cannot, of course, control the Class II milk use in the entire market, which would influence his cost of milk under the repooling proposal.

The adoption of the repooling provision only with regard to bulk interorder shipments could have very inequitable consequences. For instance, under such a provision a handler with his plant located in a particular marketing area would be at a disadvantage in obtaining milk in bulk form from another lower-priced Federal order market. Meanwhile, such handler might be in competition with a handler whose routes extended from a lower-priced market into his own marketing area. In these circumstances, the first handler would be placed in a very inequitable position. If the local handler may obtain bulk milk from the other market on reasonably equal terms to meet the competition of the bottled milk from the other market, such inequity is avoided.

In addition, the repooling provision could be inequitable to the producers of other Federal order markets with market pools. Normally, the producers in each such market carry the economic burden associated with providing adequate reserves of milk for all Class I sales. Consequently, they share in the burden of providing such reserve supplies in their own market. If the milk is to be repooled when sent to the second market, the producers who supplied the milk would then share additionally in the burden of supplying reserve milk in the second market. Finally, of course, if the repooling provision were to result, as it appears likely that it would, in misalignment of prices among markets, then the public would be treated inequitably and the establishment of prices at levels which are in the public interest would not be achieved.

The problem which the repooling proposal was designed to deal with appears actually to be of little consequence. The orders have generally provided that under specified circumstances, which each handler could control for himself, bulk milk could be transferred between Federal order markets without significant deterrent. Indeed, the recommended provisions simply apply to all interorder shipments of bulk milk, the same conditions as are available to handlers under present provisions if handlers meet the prescribed circumstances. Despite the fact that handlers could receive bulk milk from other order markets without significant deterrent, only insignificant quantities of milk were transferred.

In all the Federal milk orders (except New York-New Jersey) taken together the average receipts of bulk milk from other order plants in relation to Class I sales in October 1961 were less than two percent. In 19 of the 27 markets involved in this hearing, e.g., Chicago, Minneapolis-St. Paul, St. Joseph, Ozarks, Kansas City, Central Mississippi, Central Arkansas, and New Orleans, no bulk milk was received from other order plants during that month (or the amount was 0.1 percent or less). Less than one percent of total packaged sales of milk by

local handlers was received in bulk form in the markets of Northeastern Wisconsin, Milwaukee, Quad Cities-Dubuque and Memphis. Only in the Des Moines (1.3) and St. Louis (4.9) markets did receipts of bulk milk from other order plants exceed one percent of packaged Class I sales of local handlers. (Statistics were not available for the Madison, Wisconsin market and the Central Illinois order has not been promulgated.) Thus, although bulk milk could have been transferred freely among order markets very little of it actually was transferred.

The fairest and most feasible method of allocating the milk in the receiving market is to prorate the milk over the classes of utilization of the receiving handler. This gives the same allocated use to an interorder shipment as is given to producer milk at the plant(s) of the handler who uses it. If the receiving handler uses a relatively high proportion of his milk receipts in Class I, the milk obtained from a plant regulated under another order will be assigned on a prorata basis primarily to Class I. On the other hand, if the handler already has large quantities of milk in excess of his Class I sales, additional receipts from other order plants under the prorata allocation will be proportionately assigned to Class II and the receiving handler will be required to pay the cost of transporting such milk.

Most often imported milk will be received by a handler who operates a single plant. In such cases the milk would be prorated to the particular plant's utilization. In some instances, of course, the milk may be received at the bottling plant of a multiple-plant handler. Utilization at such plant is likely to be higher than the handler's total utilization at all his pool plants. It is possible that the handler would have supplies at his other pool plants which would be placed in lower-priced uses while milk was brought in from other regulated markets. If the milk imported by a multiple-plant handler is prorated only to the receiving plant's utilization, such proration could reduce the handler's percentage of producer milk in Class I in his system to a greater extent than if proration were applied over the whole system.

Prorating the bulk receipts from market pool orders to the handler's system utilization will prevent a handler with more than one plant, with plentiful supplies available to him, from discriminating against either his own producers or those supplying the other Federal order market by importing milk not serving a bona fide need for Class I use. Therefore, it is concluded that equitable treatment to producers in both the transferee and transferor markets can be achieved by returning to the transferor market the pro rata assignment of such milk to the receiving handler's utilization at all his pool plants combined. Handler-wide proration is provided at the present time in a majority of these orders. In some orders, however, allocation is on a plant-by-plant basis. As to the latter orders provision is made herein that the allocation of bulk receipts from

<sup>1</sup> Such prices normally are lowest in the North Central dairy region and increase toward the West, South and East.

other market pool orders at a plant shall be at the average utilization of the handler's plant system, irrespective of individual plant accounting for other purposes of the regulation.

Provision is also made to the effect that handlers receiving milk to be prorated (as receipts from other orders or from unregulated plants) may not transfer such milk to regulated plants of other handlers at a utilization higher than would have resulted from a direct receipt at the second plant. Unless the orders so provide it would be possible to use a plant with high Class I utilization as a conduit for receiving milk from plants subject to other orders and avoid the allocation provisions of the order which apply to milk received directly from other orders and from unregulated plants.

The provisions made for dealing with bulk receipts of milk from other market pool order plants are such that, on the one hand, producers in local market areas are protected against arbitrary or inequitable allocations of milk from other Federal order markets by the safeguards inherent in handlerwise allocation and allocation of transfers of other order milk on the basis of second or subsequent handler use. On the other hand, the allocation accorded to milk from other order plants will depend upon each handler's utilization of milk. The particular allocation which is given to such receipts will, therefore, be within the control of each individual-handler. Hence, the orders themselves will impose no deterrent to the shipment of interorder milk. Obviously, however, a handler's own operations will deter the utilization of local producer milk in Class II at any time the handler is importing milk from other order markets. The provisions, therefore, are those which will carry out the intent of the Act with regard to not placing any trade barriers in the way of milk movements and will most effectively comport with the supply-demand pricing standards of the statute. They are also the most equitable provisions with respect to the interests of local producers versus other order market producers.

Situations may arise where plants subject to different Federal orders ship bulk milk back and forth during the same month (i.e., each plant ships bulk milk to the other plant). As a matter of convenience, market administrators should consider only transfers of milk between two plants which are not offset by an equal quantity of milk received from the second plant. Since the classification of this milk in the transferor market is based upon its allocation in the receiving market, only the net difference in transferred quantities (in terms of butterfat and skim milk separately as may be necessary) need be allocated in the receiving market. Otherwise, from a mechanical standpoint, neither market could allocate receipts of milk to classes until all milk had been classified, including the shipment to the other market.

In connection with the proposal to compensate the transferee-market for any difference in its Class I price over the

Class I price of the shipping market, certain witnesses alleged that differences in Class I prices, particularly where varying seasonal price structures are found, could provide sufficient advantage that handlers under one order will be encouraged to seek outlets in the other regulated markets. As previously stated, any such occurrence should be approached fundamentally as a price alignment matter rather than as part of a plan to provide equitable classification and assignment for milk entering a particular market from various sources.

(3) *Application to bulk receipts from individual-handler pool orders.* While most proponents made no distinction between receipts of bulk milk from individual-handler pool markets as compared to bulk milk from market pool markets for allocation purposes, several witnesses recognized that identical treatment of both market pool and individual-handler pool receipts could provide an individual-handler pool market the opportunity to shift the burden of its surplus to a market pool. One proponent, representing a substantial cooperative association, contended that regulation under individual-handler pooling may not be effective in determining the disposition of milk at less than order prices. It was his position that the requirement of the Act that a cooperative association may not sell milk to any handler at less than the order prices is ineffective because the only loss to the cooperative for violation of this requirement is loss of the privilege of reblending proceeds from sales in all markets. Consequently a cooperative which assumes responsibility for handling a market's reserve supply has a considerable incentive to dispose of such milk at any price which will move the milk and provide greater returns to its members than when disposed of for manufacturing uses.

A representative of a cooperative association operating plants under both a marketwide and individual-handler pool order indicated that the plant regulated under the individual-handler pool regularly ships bulk milk to the marketwide pool plant.

Even though milk is subject to full minimum price regulation under individual-handler pool orders, nevertheless, special competitive circumstances develop when milk from an individual-handler pool market is introduced into a market pool market which circumstances do not develop in connection with shipments from other market pool markets. Under the individual-handler pool regulation, the handler does not have any obligation to a market pool fund and pays to his producers the entire amount of the obligation for the milk he receives. Competitive situations may exist within the procurement area which impel the handler to maintain as high a uniform price as he reasonably can. In normally competitive supply situations, therefore, a handler in an individual-handler pool market who, for reasons of his own, carries a reserve over and above his Class I needs will be under competitive pressure to find additional Class I outlets by making out-of-market shipments. There could be an advantage to

the handler in accepting a return in the other market less than the Class I price plus his handling costs, since this would enable him to return to his producers a higher blend price than if he used the same milk in manufacturing.

Moreover, in the case of a cooperative association in its capacity as a handler or as the operator of a fluid processing and distributing milk plant under an individual-handler pool order, other special circumstances also provide the incentive to make shipments to other markets. The Agricultural Marketing Agreement Act recognizes the right of any qualified cooperative association to return the proceeds from the sale of milk in all markets to its members. Although, under this provision of the statute, a cooperative may not sell milk to handlers at less than the class prices specified in the order, no similar requirement applies with respect to the sale of milk to nonhandlers. If a cooperative association accumulates quantities of milk beyond those that it can sell readily at normal prices, a special incentive arises for the cooperative to find some outlet where this excess may be disposed of at any price above its manufacturing value. It is especially advantageous if the outlets for this additional milk are outside the cooperative's major market or area of disposal. This situation is different from that of a cooperative association which is a handler in a market pool, since the latter must share with the pool the returns it receives for its Class I disposition. If a cooperative in a market pool reduces its selling prices below its total cost of milk (i.e. Class I prices plus handling charges) this would lower its returns below the market average, and would impair the cooperative's ability to hold its membership.

An objective of the defined qualifications of regulated plants in an individual-handler pool market is to assure orderly marketing through full regulation of all handlers doing business in the marketing area. With this objective the marketing performance requirements for regulated status ordinarily will be lower than in most market pool orders where consideration must be given also to whether the plant is predominantly engaged in handling milk for the fluid market, whether its inclusion in a pool would tend to dissipate returns from the market's Class I disposition to sources of milk intended primarily for manufacturing, and whether handlers doing the principal portion of their fluid milk business elsewhere might be relieved of the full obligations required of pool handlers.\*

\* For example, a plant qualifies for full regulation under the Fort Smith milk order by disposing of any volume of fluid milk products (no matter how small) in the marketing area either on routes or to other regulated plants. A plant qualifies as a distributing plant under the Milwaukee Federal order by distributing on routes, on eight days or more during the month, any volume of approved fluid milk products. Also, a plant would qualify as a supply plant during August through November by shipping eight days to other distributing plants. During the months of December

In recognition of the different character of the markets to which the different pooling methods apply, the market performance standards for full regulation under the two types of orders differ in the manner described. The effect of these differences in standards must be taken into account in dealing with the problem of intermarket shipments. Under these standards plants may become regulated on the basis of a lesser degree of market performance in an individual-handler pool market, but they may, nevertheless, engage in shipping bulk milk in more substantial volume to regulated plants under market pool orders with the disruptive effects which have been described.

In view of the particular circumstances affecting milk shipped from individual-handler pool markets, the assignment of such milk received at a regulated market pool plant should be handled in a manner which assures such receipts will not impair orderly marketing. Bulk milk received at a plant subject to a market pool order from a plant subject to an individual-handler pool order should be assigned pro rata to the receiving handler's class utilization at the same stage in allocation as other order market pool milk unless such receipts are designated specifically for manufacturing use. Unlike receipts from market pool markets, however, the receiving handler should be obligated for such milk at the minimum class prices of the receiving market for utilization so assigned, less the market's minimum uniform price, both adjusted for the location of the plant from which received. The shipping handler (in the individual-handler pool market) should be obligated to his producers for such milk at the market average utilization in the market pool market to which it was shipped. By reducing the incentive to supply milk under conditions which upset the principles of market pooling, this manner of dividing the proceeds from such sales will promote and maintain orderly marketing.

This provision treats bulk milk from other Federal orders with individual-handler pooling slightly differently than bulk milk from unregulated sources. This is appropriate because bulk milk from other Federal orders is fully accounted for and priced under the other

through July any shipment to a distributing plant qualifies a plant as a supply plant.

Under the North Central Iowa order a plant may qualify as a supply plant by shipping any volume of approved fluid milk products to a distributing plant a minimum of ten days during the month in September through November and five days during other months of the year. A greater degree of association with the market is required for a plant to qualify as a regulated distributing plant—fluid distribution on routes in the market area of a minimum of 1000 pounds per day, or at least 15 percent of the plant's receipts of approved milk. Under the Memphis order a plant may qualify for full regulation by distributing in the marketing area at least 1000 pounds per day or 5 percent of its receipts of approved milk, or by shipping to regulated distributing plants 70,000 pounds of milk during the month some of which is allocated to Class I use.

Federal order whereas unregulated bulk milk is not so accounted for or fully priced.

As in the case of receipts from plants under other market pool orders, and for similar reasons, receipts of bulk milk from individual-handler pool markets should be assigned to the surplus class, if both the shipping and receiving handlers report the milk as moved for manufacturing use. If, in any instance, the quantity designated for manufacturing use exceeds the surplus class utilization, the remaining receipts then should be assigned to Class I (or next higher class). In such case, the receiving handler would be obligated to the market pool for such remaining quantity at the Class I price and be credited thereon at the market blend. The shipping handler would be accountable to his producers at the prorata utilization of the receiving market on the portion so assigned to Class I.

(d) *Classification in the shipping market.* To further accomplish the objectives outlined under the preceding headings of this section, milk regulated under a Federal order which is disposed of in another Federal order market should receive classification treatment in the transferor-market identical with that it receives under the transferee-market order.

The present transfer "out" provisions in the several orders under review were discussed previously in this decision. Obviously, such provisions as they apply in the respective markets will not comport, in all cases, with the intent of this decision regarding the assignments to be given in the receiving market to inter-order receipts of milk. The interplant transfer provisions in each of the orders therefore should be amended as necessary to provide that when milk (either bulk or packaged) is transferred to a plant subject to another Federal order, the classification of such milk in the transferor-market will be based upon assignment in the market where used. The transferor-handler should account for this milk to his pool, or in individual-handler pool markets to his producers, however, at the class prices of the shipping market.

Such procedure will avoid the possibility of "double" payment on milk transferred between regulated markets and will return to producers of the shipping market the prices of their own market on the transferred milk. It should achieve a coordinated classification and assignment plan for the various orders irrespective of which market is a transferor or transferee market, and therefore should be adopted.

III. *Incidental and corollary revisions.* Certain incidental and corollary changes in order provisions, set forth below, are necessary to carry out the objectives of the revised provisions previously discussed.

(a) *Shrinkage.* The allocation pro rata to classes of use herein provided for certain specified unregulated milk and other order milk received at pool plants makes it appropriate to limit the volume of such milk that may be classified in the surplus class as unaccounted for

milk (shrinkage). Under the pro rata allocation method such milk will share equally with producer milk in any Class I volume computed because of shrinkage in excess of established limits. No shrinkage limit is provided on unpriced milk that is allocated first to the surplus class, since this allocation insures assignment of such milk to the same class as that in which unaccounted for milk assigned to it is classified.

(b) *Inventory reclassification.* In those orders in which inventories of fluid milk products are classified in the surplus class, and allocated to the next month's utilization in series beginning with that class, provision is made for an inventory reclassification charge at the difference between the surplus class price of the month in which classified and the Class I price of the following month on any such inventory thus assigned to Class I utilization in the following month. The assignment provisions herein adopted insure that any such milk thus assigned to the surplus class the preceding month will either have been so assigned pro rata with producer milk, or is milk which by its very nature is surplus milk. Furthermore, any other order milk so assigned will have been priced at the comparable surplus class in the order of origin. The charge provided therefore appropriately reflects the change in value resulting from the inventory reclassification.

(c) The January hearing in St. Louis was a reopened hearing on several orders. A previous hearing was held at Jackson, Mississippi, on July 10-13, 1962, on proposals to merge the Mississippi Gulf Coast and Central Mississippi orders under a single "Southern Mississippi" order. A recommended decision on this matter was recently issued recommending the merging of the two orders. The decision did not deal with the matters further considered at the St. Louis hearing. The proposed order language for the newly designated "Southern Mississippi" order hereinafter set forth is intended to implement the conclusions of the previous recommended decision as well as the conclusions of this decision. Interested parties will file exceptions to the two decisions simultaneously. It is contemplated that a single final decision incorporating the findings and conclusions of the two recommended decisions will be issued following review of exceptions.

(d) A hearing was held in January 1962 on a proposed order for Central Illinois and proposed amendments to the Suburban St. Louis and Quad Cities-Dubuque orders and a recommended decision based on such hearing was issued November 13, 1962. Following review of exceptions a revised recommended decision was prepared and is being issued concurrently with this decision. That decision, however, does not cover the issues considered in this decision. As in the case of the "Southern Mississippi" order it is contemplated that, following review of exceptions to the two decisions, one final decision will be issued.

(e) In June 1963 a joint hearing was held on the St. Louis, Ozarks, and Suburban St. Louis orders to consider: (1) Merger of the St. Louis and Ozarks or-

ders; (2) transferring part of the Suburban St. Louis marketing area to the St. Louis marketing area; (3) expansion of each of the respective marketing areas; and (4) other miscellaneous order changes. At that hearing no testimony was presented by interested parties with respect to the matters considered at the January St. Louis hearing on which the findings of this decision are based. Interested parties stated that they were adopting their January testimony on these matters and any order amendments issued as a result of the January hearing would be equally appropriate under the merged and/or extended orders.

(f) *Administrative assessments on unregulated milk.* The Act provides that each handler shall pay his pro rata share (as approved by the Secretary for the particular order) of the cost of administration of the order. As has been previously indicated, each of the orders other than Chicago prescribe specific standards for pooling above a minimum which permits pool exemption. With certain specified exceptions, operators of plants not meeting such standards would, under the recommendations hereinbefore set forth, be required on election to make specified payments to the pool on route distribution in the marketing area in excess of offsetting Federal order Class I purchases or otherwise pay to the pool and/or to dairy farmers, an amount not less than the full classified use value of receipts (computed as though such plant were a pool plant).

The market administrator in administering an order as it applies to the non-pool route distributor must incur expenses in essentially the same manner as in applying the order to pool handlers. Partial regulation (as prescribed) of the nonpool distributor does not, however, provide the same benefits to such handler as accrue to the fully regulated, or pool, handler; i.e., the privilege of pool participation and assurance of uniform price payments to his dairy farmers. If the nonpool route distributor elects to make compensatory payment, the expenses incurred by the market administrator in administering the terms of the order on such handler are nominal and payment of the administrative assessment on his in-area sales reasonably would constitute his pro rata share of administrative expense.

In the situation where such a distributor for any reason actually pays his dairy farmers the full use value of their milk (computed at order prices), it has in the past, on the basis of substantial record evidence in promulgation hearings, been found necessary in many areas to require payment by such distributor of an administrative assessment on his total receipts of milk in order to defray the costs of complete plant auditing to verify the utilization and payments as claimed. In large measure, such a distributor's operations are more comparable to those of a fully regulated handler and such assessment is substantially the same as for a fully regulated handler. On the basis of the present record, however, there is reason to believe that in some instances such an assessment might make possible a financial obligation under the order in

excess of his total obligation through the alternative of electing to use the pool payment provision. From the financial standpoint such a situation provides little practical alternative to such handler but to pay the required pool payment. In order to give more meaningful effect to the choice of an alternative, the pro rata share of the administrative expense of the order should in the future be the regular assessment rate applied to such milk as is actually disposed of as Class I in the regulated area, irrespective of whether the pool payment option is elected by the unregulated distributor.

In the case of unregulated milk which enters the market through a fully regulated plant for Class I use, it is the pool handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk as well as on all other milk received and utilized. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. It is concluded, therefore, that the pool handler should be responsible for payment of the administrative assessment and for obligations to the producer-settlement fund with respect to such unregulated milk.

(g) *Reporting Requirements.* Additional reports are required for the computation of certain obligations to be established in accordance with the conclusions set forth elsewhere in this decision. Operators of partially regulated distributing plants whose obligations are to be determined from comparison of the classified use value of their milk with payments to dairy farmers (Wichita option) must report their receipts, utilization and payments on the same basis as fully regulated handlers. Such reports are now included in orders using this option, and are added to all other market pool orders.

Handlers shipping bulk milk to plants regulated under other orders are required to report to the market administrator of their order on or before the 2nd day of the following month information which will identify the receiver. Thereafter, communication between market administrators will establish the classification assigned to such milk in the receiving market on the basis of reports presently required under the order for that market. Administrative direction will be issued to market administrators with respect to details of such communication and notification to the shipper concerning the classification upon which his obligation is computed in the shipping market.

(h) *Application of location differentials.* In the application of compensatory payments on unregulated milk at the difference between the Class I and blend prices, such prices are computed at the location of the plant from which the milk is either distributed in the marketing area or is received at a regulated plant. Blend prices are usually adjusted for location at the same rate as Class I prices while surplus class prices do not usually vary by location. At far distant points the blend price may be less than the surplus price. Provision is made that in no case shall the credit given be less than the surplus class price.

#### *Rulings on Proposed Findings and Conclusions*

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

At the hearing, an interested party attempted to place in evidence certain data relating to the cost of producing milk. The hearing examiner excluded such data from the record. In his brief, the interested party urged that the same data be considered a part of the record. For the reasons stated by the hearing examiner at the hearing, the hearing examiner's action is hereby sustained.

#### *General Findings*

The findings and determinations hereinbefore set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the respective orders and of the previously issued amendments thereto; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the respective marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

#### *Recommended Marketing Agreements and Orders Amending the Orders*

The following orders amending the orders as amended regulating the handling of milk in the specified marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. In the case of the Central Mississippi Gulf Coast marketing areas (to be newly designated as "Southern Mississippi



Marketing Area"), the order language as set forth implements the foregoing conclusions as well as the conclusions set forth in the recommended decision issued January 20, 1964. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the respective orders, as hereby proposed to be amended:

#### PART 1030—MILK IN CHICAGO, ILL., MARKETING AREA

1. The proviso in § 1030.40(a) is revised to read as follows:

##### § 1030.40 Basis of classification.

(a) Any milk moved as milk or skim milk in fluid form from a regulated plant to a plant at which the handling of milk is subject to pricing and payment under any marketing agreement or order issued pursuant to the Act for any other fluid milk marketing area shall be classified in the class to which allocated on the basis of receipts and utilization reported for the month under the other order. For this purpose, if the transferee order provides for only two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I and cream allocated to such class classified as Class II; allocations to other class uses shall be classified as Class III. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrator, such allocation shall be to Class III (or comparable classes under such other order) to the extent of the Class III utilization available for such assignment. If this paragraph is applicable, then paragraphs (b), (c), (d), and (e) of this section do not apply.

##### § 1030.43 [Amendment]

2. In the proviso of § 1030.43(b), delete the reference to "(a)".

3. Section 1030.45(d) is revised to read as follows:

##### § 1030.45 Allocation of classified milk.

(d) Subtract from the pounds in each class in the order specified below:

(1) From Class III milk, the lesser of the remaining pounds or two percent of receipts of packaged milk and milk products from plants subject to the pricing and pooling provisions of another order issued pursuant to the Act. Any remaining pounds of such receipts shall be subtracted from Class I (Class II if so defined by this order);

(2) From Class III milk, but not in excess of the remaining pounds, receipts in bulk of milk and milk products from plants subject to the pricing and pooling provisions of another order issued pursuant to the Act, if Class III utilization was requested by the operators of both plants; and

(3) From the remaining pounds in each class, pro rata to such quantities, receipts in bulk of milk and milk prod-

ucts from plants subject to the pricing and pooling provisions of another order issued pursuant to the Act that were not subtracted pursuant to subparagraph (2) of this paragraph;

#### PART 1031—MILK IN SOUTH BEND-LAPORTE-ELKHART, IND., MARKETING AREA

1. Section 1031.11 is revised to read as follows:

##### § 1031.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant.

2. Section 1031.12 is revised to read as follows:

##### § 1031.12 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk eligible for sale in fluid form as Grade A milk within the marketing area which is either (a) received from the farm at a pool plant(s), or (b) caused to be temporarily diverted by the handler for his account from a pool plant to a nonpool plant: *Provided*, That such diverted milk shall be deemed to be received by such handler at the location of the pool plant from which it was diverted.

3. Section 1031.15 is revised to read as follows:

##### § 1031.15 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) Any cooperative association with respect to producer milk caused to be delivered for the account of such association from the farms of producers to the pool plant(s) of another handler(s) and milk customarily received as producer

milk at a pool plant which is diverted by such association for its account to a non-pool plant;

(c) Any person who operates a partially regulated distributing plant;

(d) Any person in his capacity as the operator of an other order plant; or

(e) A producer-handler.

4. A new § 1031.18 is added to read as follows:

##### § 1031.18 Fluid milk product.

"Fluid milk product" means milk, skim milk, flavored milk, flavored milk drink, buttermilk, cream (sweet or sour) and any fluid mixture of cream and milk (or skim milk) containing not less than 6 percent butterfat (but not including ice cream or other frozen dessert mixes disposed of to a commercial processor, or any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product) fluid or frozen concentrated milk, flavored milk, flavored milk drink not sterilized and eggnog.

5. In § 1031.30, paragraph (b) is revised to read as follows:

##### § 1031.30 Monthly reports of receipts and utilization.

(b) Each handler specified in § 1031.15 (c) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk.

6. Section 1031.31 is revised to read as follows:

##### § 1031.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 25th day of each month, each handler shall submit to the market administrator his producer payroll for the preceding month which shall show for each producer and cooperative association:

(1) The total pounds of milk delivered with the average butterfat test thereof, and

(2) The net amount of the payment to each producer and each cooperative association, together with the prices, deductions and charges involved.

(c) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

7. Section 1031.41 is revised to read as follows:

##### § 1031.41 Classes of utilization.

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of (except as provided in paragraph (c) (1), (4) and (5) of this

section) in the form of milk, skim milk, flavored milk, flavored milk drink and buttermilk;

(2) Disposed of as cream (sweet or sour) and any fluid mixture of cream and milk (or skim milk) containing not less than 6 percent butterfat (but not including ice cream or other frozen dessert mixes disposed of to a commercial processor, or any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product);

(3) Disposed of in fluid or frozen form as concentrated milk, flavored milk, flavored milk drink not sterilized and not otherwise specified under paragraph (c) of this section, and as eggnog; and

(4) Not specifically accounted for as any item named in this paragraph or as Class II milk or as Class III milk.

(b) Class II milk shall be all skim milk and butterfat used to produce cottage cheese.

(c) Class III milk shall be all skim milk and butterfat:

(1) Disposed of in bulk in the form of milk, skim milk, buttermilk and cream to any manufacturer of candy, soup or bakery products and used in such products;

(2) In condensed milk or skim milk (sweetened or unsweetened) disposed of to commercial food processors;

(3) Disposed of (or used to produce, in the case of ice cream and frozen desserts and mixes (liquid or powdered) for such products, and aerated cream products) as sweetened condensed milk in hermetically sealed cans, evaporated milk, ice cream, ice cream mix, other frozen desserts and mixes, storage cream, butter, cheese and nonfat dry milk;

(4) Dumped or disposed of for livestock feed as skim milk (including that in whole milk dumped), flavored milk, flavored milk drink and buttermilk;

(5) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of the fluid milk product prior to such addition;

(6) Disposed of as a milk product other than any of those specified in paragraph (a) (1), (2) and (3), in paragraph (b), and in subparagraphs (1) through (5) of this paragraph;

(7) Contained in monthly inventory variations;

(8) In shrinkage but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 2.0 percent of fluid milk products subject to allocation pursuant to § 1031.46(a) (6) and the corresponding step of § 1031.46(b); and

(iii) Less 2.0 percent of fluid milk products transferred in bulk to other order plants; and

(9) In shrinkage assigned pursuant to § 1031.42(b) (2).

8. Section 1031.42 is revised to read as follows:

#### § 1031.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of the skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1031.41(c) (8); and

(2) Other source milk exclusive of that specified in § 1031.41(c) (8).

9. Section 1031.44 is revised to read as follows:

#### § 1031.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1031.46(a) (6) and the corresponding step of § 1031.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1031.46(a) (3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1031.46(a) (6) and the corresponding step of § 1031.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1031.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so

transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk and Class III milk, in series beginning with Class III milk;

(d) As producer milk in the transferee plant, if transferred as bulk milk to the pool plant of another handler by a cooperative association from its pool plant or in its capacity as a handler pursuant to § 1031.15(b). Such milk shall be excluded from producer milk to be classified as that of the cooperative association; and

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II or Class III. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II or Class III (or comparable classes under such other order) to the extent of all Class II or Class III utilization available for such assignment.

10. Section 1031.46 is revised to read as follows:

#### § 1031.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1031.45, the market administrator shall determine the classification of milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III, the pounds of skim

milk classified as Class III pursuant to § 1031.41(c) (8);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk or Class II milk, in sequence beginning with Class III, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II or Class III but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II or Class III utilization; or

(b) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II or Class III utilization was requested by the operators of both plants;

(5) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(6) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (i) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1031.44(a);

(8) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any

amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

11. Section 1031.56 is revised to read as follows:

§ 1031.56 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) received at a plant or reload point located at least 55 miles but not more than 60 miles by shortest highway distance as measured by the market administrator, from the St. Joseph County Courthouse, South Bend, Indiana, shall be reduced by 10 cents, plus 1.6 cents for each 10 miles or fraction thereof that such plant or reload point is located more than 60 miles from the St. Joseph County Courthouse, South Bend, Indiana;

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants and handler pool other order plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of receipts at such plant from producers and handlers pursuant to § 1031.15(b) and that assigned as Class I to receipts from market pool other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant beginning with the plant nearest the St. Joseph County Courthouse in South Bend, Indiana.

12. Section 1031.70 is revised to read as follows:

§ 1031.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk (including any such milk caused to be delivered to such handler from the farms of producers for the account of a cooperative association) in each class, as computed pursuant to § 1031.46, by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1031.46(a) (8) and the corresponding step of § 1031.46 (b) by the applicable class prices;

(c) Add an amount equal to the difference between the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1031.46(a) (3) and the corresponding step of § 1031.46(b);

(d) Add the value at the Class I price, adjusted for location of the nearest non-pool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1031.46(a) (6) (i) and the corresponding step of § 1031.46(b); and

(e) Add the value at the applicable class prices of the skim milk and butterfat subtracted from each class pursuant

to § 1031.46(a) (6) (iii) and the corresponding step of § 1031.46(b).

13. Section 1031.71 is revised to read as follows:

§ 1031.71 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1031.70 for all handlers who filed the reports prescribed by § 1031.30 for the month and who made the payments pursuant to § 1031.83 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1031.81(b);

(c) Subtract, if the average butterfat content of the milk specified in paragraph (a) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1031.81(a) and multiplying the result by the total hundredweight of such milk;

(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 values are computed pursuant to § 1031.70 (d) and (e);

(f) Subtract not less than four cents nor more than five cents per hundredweight.

14. A new § 1031.72 is added to read as follows:

§ 1031.72 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month, the lesser of the amounts calculated pursuant to paragraphs (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1031.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1031.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1031.10(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such plant(s) to a pool plant or an other order plant shall be valued at the Class II or

Class III prices if allocated to such class at the pool plant or other order plant and at the uniform price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1031.10(b) and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area.

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1031.71 at the same location or at the Class III price, whichever is higher.

15. Section 1031.81(b) is revised to read as follows:

§ 1031.81 Producer butterfat and location differentials to producers and on nonpool milk.

(b) The uniform price for milk received at a plant shall be reduced according to the location of the plant at the rates set forth in § 1031.56.

§ 1031.82 [Amendment]

In § 1031.82 the reference to "§ 1031.83" is deleted and "§§ 1031.72 and 1031.83" is substituted therefor.

17. Section 1031.83 is revised to read as follows:

§ 1031.83 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to § 1031.80(b), each cooperative association shall pay to the market administrator on or before the 16th day after the end of the month, the amount by which the utilization value of such milk is greater than the value computed at the uniform price:

(a) The net pool obligation computed pursuant to § 1031.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which values are computed pursuant to § 1031.70 (d) and (e).

18. Section 1031.84 is revised to read as follows:

§ 1031.84 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1031.83(b) exceeds the amount computed pursuant to § 1031.83 (a). The market administrator shall offset any payment due any handler against payments due from such handler: *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to § 1031.80(b), the market administrator shall pay to such cooperative association on or before the 17th day after the end of the month, the amount by which the utilization value of such milk is less than the value computed at the uniform price: *And provided further*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the necessary funds are available.

19. Section 1031.85 is revised to read as follows:

§ 1031.85 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1031.46(a) (3) and (6) (i) and the corresponding steps of § 1031.46(b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

#### PART 1032—MILK IN SUBURBAN ST. LOUIS MARKETING AREA

1. Section 1032.7 is revised to read as follows:

§ 1032.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who, in compliance with the Grade A inspection requirements of a duly constituted health au-

thority, produces milk for distribution as fluid milk products within the marketing area or produces milk acceptable for fluid consumption at Federal, State or municipal institutions, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1032.14.

2. In § 1032.8, paragraph (b) is revised and a new paragraph (e) is added to read as follows:

§ 1032.8 Handler.

(b) Any person who operates a partially regulated distributing plant;

(e) A producer-handler, or any person who operates an other order plant.

3. Section 1032.13 is revised to read as follows:

§ 1032.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant nor a producer-handler plant.

4. Section 1032.30 is revised to read as follows:

§ 1032.30 Reports of receipts and utilization.

Not later than the 8th day after the end of the month, each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant(s) shall report for each pool plant(s) and a cooperative association which is a handler pursuant to § 1032.8 (c) or (d) shall likewise report the quantities of skim milk and butterfat contained in:

(1) Receipts of milk from producers, including receipts of the handler's own production;

(2) The quantities of skim milk and butterfat contained in milk and milk products received from other pool plants

and from a cooperative association which is a handler pursuant to § 1032.8(d);

(3) The quantities of skim milk and butterfat contained in other source milk, including milk which has been classified and priced under other Federal orders;

(4) The inventories of skim milk and butterfat on hand at the beginning and the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported by this section, including a separate statement of disposition of Class I milk outside the marketing area;

(6) The name and address of each producer from whom milk was received with statements showing dates on which such producer started shipping and the date on which milk shipments stopped; and

(7) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require; and

(b) Each handler specified in § 1032.8 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk.

5. In § 1032.31 paragraph (b) is revised to read as follows:

**§ 1032.31 Payroll reports.**

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments as required pursuant to § 1032.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received, the same information as required pursuant to paragraph (a) of this section.

6. Section 1032.32 is revised to read as follows:

**§ 1032.32 Other reports.**

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

7. In § 1032.41, paragraph (b) (7) and (8) is revised to read as follows:

**§ 1032.41 Classes of utilization.**

(b) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1032.42(b) (1), but not to exceed the following: Two percent of milk received directly from producers, plus one and one-half percent of milk received in bulk tank lots from pool plants of other handlers, and from other order plants and unregulated supply plants to be allocated pursuant to subparagraphs (7) and (8) of § 1032.46(a) and

the corresponding steps of § 1032.46(b), plus one and one-half percent of milk received from a cooperative association which is the handler for such milk pursuant to § 1032.8(d), (except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be two percent) less one and one-half percent of milk disposed of in bulk tank lots to plants of other handlers and to nonpool plants (except when the preceding exception hereof applies and the milk is diverted, the applicable percentage shall be two percent); and

(8) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1032.42(b) (2).

8. Section 1032.42 is revised to read as follows:

**§ 1032.42 Shrinkage.**

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat, respectively, in the amounts of receipts used in the computations pursuant to § 1032.41(b) (7); and (2) skim milk and butterfat in other source milk in fluid form, exclusive of that specified in § 1032.41(b) (7).

9. Section 1032.44 is revised to read as follows:

**§ 1032.44 Transfers.**

Skim milk and butterfat disposed of by a handler, including a cooperative association in its capacity as a handler pursuant to § 1032.8 (c) and (d) shall be classified:

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred or diverted to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1032.46(a) (8) and the corresponding step of (b). If a specified utilization is not claimed by both handlers, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is a handler pursuant to § 1032.8 (d), shall be classified pro rata to the respective amounts remaining in each class for such month at the pool plant of the receiving handler after the computations pursuant to § 1032.46(a) (8) and the corresponding step of § 1032.46 (b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1032.46(a) (3) and the corresponding step of (b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1032.46(a) (7) or (8) and the corresponding step of (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 450 miles by shortest highway distance as determined by the market administrator, from the City Hall of Vandalia, Illinois, except that cream so transferred may be classified as Class II if the handler claims Class II use and establishes that such cream was transferred to a nonpool plant without Grade A certification and that each container was labeled or tagged to indicate that the contents were for manufacturing use and that the shipment was so invoiced;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 450 miles by the shortest highway distance as determined by the market administrator, from the City Hall of Vandalia, Illinois, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1032.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regu-

lated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such non-pool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk; and

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If for bulk shipments the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or to comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

10. Section 1032.46 is revised to read as follows:

**§ 1032.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1032.45, the market administrator shall determine the classification of producer milk at each pool plant as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified in Class I pursuant to § 1032.41 (b) (7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of shrinkage classified as Class I) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler.

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph; and

(ii) The pounds of skim milk in receipts of fluid milk products from un-

regulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph.

Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers and cooperative associations according to the classification assigned pursuant to § 1032.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1032.53 is revised to read as follows:

**§ 1032.53 Location adjustments to handlers.**

(a) For milk received from producers and for other source milk for which a location adjustment credit is applicable which is received at a pool plant located outside the marketing area and which is transferred to another pool plant in the form of fluid milk products and assigned to Class I pursuant to the proviso of this section, or otherwise classified as Class I, the price specified in § 1032.51 (a) (1) shall be reduced 7.5 cents, plus an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 60 miles from the County Courthouse in Vandalia, Illinois, by shortest accessible highway distance as determined by the market administrator; and

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products from handler pool other order plants shall be assigned Class I disposition at the transferee plant only to the extent that 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant and from producers and cooperative associations pursuant to § 1032.8(d), and the volume assigned as Class I to receipts from market pool other order plants and unregulated

supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

12. A new § 1032.62 is added to read as follows:

**§ 1032.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1032.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1032.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1032.12(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such pool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant which serves as a supply plant and meets requirements equivalent to § 1032.12(b), and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

13. Section 1032.70 is revised to read as follows:

**§ 1032.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1032.46(c), by the applicable class prices (adjusted pursuant to §§ 1032.52 and 1032.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1032.46(a)(10) and the corresponding step of § 1032.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1032.46(a)(5) and the corresponding step of § 1032.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1032.46(a)(3) and the corresponding step of § 1032.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1032.46(a)(8)(ii) and the corresponding step of § 1032.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1032.46(a)(7) and the corresponding step of § 1032.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1032.53 (b).

14. Section 1032.71 is revised to read as follows:

**§ 1032.71 Computation of uniform prices.**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants located in the "base zone" as follows:

(a) Combine into one total the values computed pursuant to § 1032.70 for all handlers who filed the reports prescribed by § 1032.30 for the month and who made the payments pursuant to §§ 1032.80 and 1032.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1032.73 plus the amount obtained by multiplying by five cents the total hundredweight of producer milk received at plants in the northern zone;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butter-

fat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1032.72 and multiplying the result by the total hundredweight of such milk;

(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 values are computed pursuant to § 1032.70(e) and (f);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June and July, an amount equal to 10 cents per hundredweight on the total hundredweight of producer milk specified in paragraph (e)(1) of this section;

(i) Add during each of the months of October, November, and December, one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

15. Section 1032.73 is revised to read as follows:

**§ 1032.73 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1032.53; and

(b) For purposes of computations pursuant to §§ 1032.82 and 1032.83 the weighted average price shall be adjusted at the rates set forth in § 1032.53 applicable at the location of the nonpool plant from which the milk was received.

16. Section 1032.81 is revised to read as follows:

**§ 1032.81 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which he shall deposit all payments made by handlers pursuant to §§ 1032.62 (a) and (b), 1032.82 and 1032.84 and out of which he shall make all payments pur-

suant to §§ 1032.83 and 1032.84: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

17. Section 1032.82 is revised to read as follows:

**§ 1032.82 Payments to the producer-settlement fund.**

On or before the 15th day after the end of the month each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section.

(a) The total of the net pool obligation computed pursuant to § 1032.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1032.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1032.70 (e) and (f): *Provided*, That the applicable weighted average price shall be reduced five cents if the other source milk is received from a plant(s) in the northern zone.

18. Section 1032.83 is revised to read as follows:

**§ 1032.83 Payments out of the producer-settlement fund.**

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1032.82(b) exceeds the amount computed pursuant to § 1032.82(a). The market administrator shall offset any payment due any handler against payments due from such handler. 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 such payments as soon as the appropriate funds are available.

19. Section 1032.86 is revised to read as follows:

**§ 1032.86 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 20th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1032.46 (a) (3) and § 1032.46(a) (8) (ii) and the corresponding steps of § 1032.46 (b), and (c) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1038—MILK IN ROCK RIVER VALLEY MARKETING AREA**

1. Section 1038.12 is revised to read as follows:

**§ 1038.12 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

2. Section 1038.13 is revised to read as follows:

**§ 1038.13 Fluid milk plant.**

"Fluid milk plant" means:

(a) A pool plant; or

(b) A partially regulated distributing plant.

3. Section 1038.16 is revised to read as follows:

**§ 1038.16 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant.

4. Section 1038.21 is redesignated § 1038.19.

5. In § 1038.32(f) the reference to "§ 1038.64" is deleted and "§ 1038.63" is substituted therefor.

6. Section 1038.36 is revised to read as follows:

**§ 1038.36 Other reports.**

(c) Each handler pursuant to § 1038.14(a), (b) and (c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 25th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(d) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

7. Section 1038.41(b) (6) is revised to read as follows:

**§ 1038.41 Classes of utilization.**

(b) \* \* \*

(6) Skim milk and butterfat, respectively (except in milk diverted to a nonpool plant pursuant to § 1038.17) in shrinkage but not in excess of:

(i) 2.0 percent of producer milk except that received from a handler pursuant to § 1038.14(c);

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1038.14(c): *Provided*, That if the handler receiving such producer milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2.0 percent;

(iii) Plus 1.5 percent of bulk fluid milk products from pool plants;

(iv) Plus 1.5 percent of receipts of fluid milk products subject to allocation pursuant to § 1038.46(a) (7) and (8) and the corresponding steps of § 1038.46(b); and

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

8. Section 1038.42 is revised to read as follows:

**§ 1038.42 Shrinkage.**

(b) \* \* \*

(1) The net quantity of producer milk and other fluid milk products specified in § 1038.41(b) (6); and

(2) Other source milk exclusive of that specified in § 1038.41(b) (6).

9. Section 1038.44 is revised to read as follows:

**§ 1038.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1038.46(a) (8)



and the corresponding step of § 1038.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1038.46(a) (3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1038.46(a) (7) and (8) and the corresponding steps of § 1038.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is not an other order plant and is more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Janesville, Wisconsin and Sterling, Illinois;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Janesville, Wisconsin and Sterling, Illinois unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1038.35 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant;

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next

pro rata to receipts from pool plants and market pool other order plants not regulated by such order; and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

10. Section 1038.46 is revised to read as follows:

§ 1038.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1038.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1038.41(b) (6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of shrinkage classified as Class I) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (1) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler;

(i) The pounds of skim milk in receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph; and

(ii) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph.

Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1038.44;

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

#### § 1038.47 [Revocation]

11. Section 1038.47 is revoked.

12. Section 1038.53 is revised to read as follows:

#### § 1038.53 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a milk plant 115 miles or more from the Chicago City Hall shall be decreased 2 cents for each 15 miles or fraction thereof that such plant is more than 100 miles from the Chicago City Hall, as determined by the market administrator: *Provided*, That the differential pursuant to this section shall not be more than 12 cents at plants in the marketing area;

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants and handler pool other order plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from market pool other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the City Hall in Chicago, Illinois.

#### § 1038.55 [Revocation]

13. Section 1038.55 is revoked.

14. Section 1038.60 is revised to read as follows:

#### § 1038.60 Computation of the net pool obligation for each pool plant.

The net pool obligation for each pool plant during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1038.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1038.46(a)(10) and the corresponding step of § 1038.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1038.46(a)(5) and the corresponding step of § 1038.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1038.46(a)(3) and the corresponding step of § 1038.46(b);

(e) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1038.46(a)(8)(ii) and the corresponding step of § 1038.46(b); and

(f) Add the value at the applicable class prices of the skim milk and butterfat subtracted from each class pursuant to § 1038.46(a)(7) and the corresponding step of § 1038.46(b).

15. Section 1038.61(b) is revised to read as follows:

#### § 1038.61 Computation of aggregate value used to determine uniform prices.

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount computed by multiplying such difference by the butterfat differential computed pursuant to § 1038.71 and multiplying the result by the total hundredweight of such milk;

16. Section 1038.62 is revised to read as follows:

#### § 1038.62 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1038.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which values are computed pursuant to § 1038.60 (e) and (f); and

(b) Subtract not less than four nor more than five cents from the price computed pursuant to paragraph (a) of this section.

17. Section 1038.64 is redesignated § 1038.63 and is revised to read as follows:

#### § 1038.63 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraphs (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1038.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1038.60 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1038.11(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such plant(s) to a pool plant or an other order plant shall be valued at the Class II price if allocated to such class at the pool plant or other order plant and at the uniform price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1038.11(b) and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1038.62 at the same location or at the Class II price, whichever is higher.

**§ 1038.64 [Redesignation]**

18. Section 1038.65 is redesignated § 1038.64.

19. Section 1038.72 is revised to read as follows:

**§ 1038.72 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant 115 miles or more from the Chicago City Hall shall be decreased two cents for each 15 miles or fraction thereof that such plant is more than 100 miles from the Chicago City Hall, as determined by the market administrator: *Provided*, That the differential pursuant to this section shall not be more than 12 cents at plants in the marketing area.

(b) For purposes of computations pursuant to §§ 1038.74 and 1038.75 the uniform price shall be adjusted at the rates set forth in § 1038.53 applicable at the location of the nonpool plant from which the milk was received.

20. Section 1038.74 is revised to read as follows:

**§ 1038.74 Payments to the producer-settlement fund.**

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1038.60 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1038.60 (e) and (f).

21. Section 1038.75 is revised to read as follows:

**§ 1038.75 Payments from the producer-settlement fund.**

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1038.74(b) exceeds the amount computed pursuant to § 1038.60: *Provided*, That if 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 such payments as soon as the necessary funds become available.

22. Section 1038.78 is revised to read as follows:

**§ 1038.78 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as

the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1038.46(a) (3) and (8) (ii) and the corresponding steps of § 1038.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

**§ 1038.73 [Amendment]**

23. In § 1038.73, the reference to "§ 1038.64" is deleted and "§ 1038.63" is substituted therefor.

24. In § 1038.14, "or" is deleted from the end of paragraph (b), a semicolon is substituted for the period at the end of paragraph (c), and new paragraphs (d) and (e) are added to read as follows:

**§ 1038.14 Handler.**

(d) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant, or

(e) A producer-handler.

25. The introductory text of § 1038.35 is revised to read as follows:

**§ 1038.35 Reports of receipts and utilization.**

On or before the 8th day after the end of each month, each handler pursuant to § 1038.14 (a) and (b) shall report to the market administrator for such month, reporting separately for each fluid milk plant, in detail and on forms prescribed by the market administrator:

**PART 1039—MILK IN MILWAUKEE, WIS., MARKETING AREA**

1. Section 1039.7 is revised to read as follows:

**§ 1039.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

2. Section 1039.11 is revised to read as follows:

**§ 1039.11 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

3. Section 1039.12 is revised to read as follows:

**§ 1039.12 Handler.**

(a) Any person in his capacity as the operator of a pool plant,

(b) Any person in his capacity as the operator of a partially regulated distributing plant,

(c) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant, or

(d) A producer-handler.

4. Section 1039.30 is revised to read as follows:

**§ 1039.30 Monthly reports of receipts and utilization.**

On or before the 7th day after the end of each month, each handler pursuant to § 1039.12 (a) and (b) shall report to the market administrator for such month, in detail and on forms prescribed by the market administrator as follows:

(a) Each handler for each pool plant shall report:

(1) The quantities of skim milk and butterfat contained in or represented by:

(i) Producer milk (including for the months of March through June the aggregate amount of base and excess milk),

(ii) Fluid milk products received from pool plants,

(iii) Other source milk,

(iv) Milk diverted to nonpool plants pursuant to § 1039.14, and

(v) Inventories of fluid milk products on hand at the beginning and end of the month;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area; and

(3) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

(b) Each handler who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of producer milk.

5. Section 1039.31 is revised to read as follows:

**§ 1039.31 Other reports.**

(b) Each handler pursuant to § 1039.12(a) shall report to the market

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administrator in detail and on forms prescribed by the market administrator, on or before the 19th day after the end of the month for each of his pool plants, his producer payroll for such month which shall show for each producer:

- (1) His name and address;
- (2) The total pounds of milk received from each producer (including for the months of March through June the total pounds of base and excess milk) and the number of days, if less than the entire month, on which milk was received from such producer;
- (3) The average butterfat content of such milk; and
- (4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(c) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

6. Section 1039.41(b) is revised to read as follows:

§ 1039.41 Classes of utilization.

(b) . . . . .

(6) Skim milk and butterfat, respectively, in shrinkage but not in excess of:

- (i) 2.0 percent of producer milk;
- (ii) Plus 1.5 percent of fluid milk products in bulk received by transfer or diversion from pool plants;
- (iii) Plus 1.5 percent of receipts of fluid milk products subject to allocation pursuant to § 1039.46(a) (7) and (8) and the corresponding steps of § 1039.46(b); and
- (iv) Less 1.5 percent of fluid milk products in bulk transferred or diverted to other plants; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1039.42(b) (2).

7. Section 1039.42 is revised to read as follows:

§ 1039.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts for each of his pool plants as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant; and

(b) Prorate the resulting amounts between receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1039.41(b) (6); and

(2) Other source milk exclusive of that specified in § 1039.41(b) (6).

8. Section 1039.44 is revised to read as follows:

§ 1039.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted

from a pool plant to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1039.46(a) (8) and the corresponding step in § 1039.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1039.46(a) (3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1039.46(a) (7) and (8) and the corresponding steps of § 1039.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is not an other order plant and is outside the State of Wisconsin or more than 150 miles, by the shortest highway distance as determined by the market administrator, from the City Hall of Milwaukee, Wisconsin;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is within the State of Wisconsin or not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the City Hall of Milwaukee, Wisconsin, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1039.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines con-

stitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to a handler pool other order plant and pro rata to the average utilization, as estimated by the market administrator of the transferee order, of the milk included in the computation of the weighted average or uniform price for such month under the transferee order if transferred to a market pool other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

9. Section 1039.46 is revised to read as follows:

§ 1039.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1039.45, the market administrator shall determine the classification of producer milk at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1039.41(b) (6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of shrinkage classified as Class I) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products

in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph; and

(ii) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1039.44(a);

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

10. Section 1039.53 is revised to read as follows:

§ 1039.53 Location adjustments to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant less than 70 miles from the City Hall in Chicago, Illinois, as determined by the market administrator, shall be increased 4 cents and at a plant 145 miles or more from the Chicago City Hall shall be decreased 2 cents for each 15 miles or fraction thereof that such plant is more than 130 miles from the Chicago City Hall, as determined by the market administrator; and

(b) For the purpose of calculating location differentials, receipts of fluid milk

products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from market pool other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the City Hall in Chicago, Illinois.

11. Section 1039.60 is revised to read as follows:

§ 1039.60 Computation of the net obligation of each handler.

The net obligation of each handler during each month at each pool plant shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1039.46(c), by the applicable class prices;

(b) Add the amounts obtained from multiplying the overage deducted pursuant to § 1039.46(a)(10) and the corresponding step of § 1039.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1039.46(a)(5) and the corresponding step of § 1039.46(b), or the hundredweight of skim milk and butterfat remaining in Class II after computations pursuant to § 1039.46(a)(5) and the corresponding step of § 1039.46(b) for the preceding month, whichever is less;

(d) Add the value at the applicable class prices of the skim milk and butterfat subtracted from each class pursuant to § 1039.46(a)(8)(ii) and the corresponding step of § 1039.46(b); and

(e) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

12. Section 1039.61 is revised to read as follows:

§ 1039.61 Computation of uniform prices for handlers.

For each month the market administrator shall compute a uniform price for the milk received by each handler as follows:

(a) Add to the amount computed pursuant to § 1039.60 the total of the location differential deductions to be made pursuant to § 1039.72;

(b) Subtract the total of the location differential additions to be made pursuant to § 1039.72;

(c) Add or subtract for each one-tenth percent that the average butterfat content of the milk specified in paragraph (e) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of such milk;

(d) Add if a deduction was made or subtract if an addition was made, in computing the uniform price for such handler to the nearest cent for the preceding month, the amount of such adjustment; and

(e) Divide the resulting amount by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which values are computed pursuant to § 1039.60(d). The result, adjusted to the nearest cent, shall be the uniform price for such handler.

#### § 1039.62 [Amendment]

13. In § 1039.62(d), "all" is deleted and "producer" is substituted therefor.

14. Section 1039.72(c) is revised to read as follows:

#### § 1039.72 Location differentials to producers and on nonpool milk.

(c) For purposes of computations of the uniform price, receipts of milk from unregulated supply plants shall be subject to location adjustment at the rates set forth in § 1039.53 applicable at the location of the unregulated supply plant.

15. Section 1039.75 is revised to read as follows:

#### § 1039.75 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), and (b) other source milk allocated to Class I pursuant to § 1039.46(a) (3) and (8) (ii) and the corresponding steps of § 1039.46(b).

### PART 1045—MILK IN NORTHEASTERN WISCONSIN MARKETING AREA

1. Section 1045.7 is revised to read as follows:

#### § 1045.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces Grade A milk in conformity with the sanitation requirements of a duly constituted health authority, whose milk is received at a pool plant.

2. Section 1045.11 is revised to read as follows:

#### § 1045.11 Handler.

(b) Any person who operates a partially regulated distributing plant;

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant;

(d) A person in his capacity as the operator of an other order plant that is

either a distributing plant or a supply plant; or

(e) A producer-handler.

3. A new § 1045.17 is added to read as follows:

#### § 1045.17 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, the plant of an exempt handler pursuant to § 1045.81 or a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

#### § 1045.18 [Redesignation]

4. Section 1045.19 is redesignated § 1045.18.

#### § 1045.22 [Amendment]

5. In § 1045.22(1) (2), the reference "§ 1045.64" is deleted and "§ 1045.63" is substituted therefor.

6. In § 1045.30, paragraphs (b) and (c) are redesignated (c) and (d), respectively, and a new paragraph (b) is added to read as follows:

#### § 1045.30 Reports of receipts and utilization.

(b) Each handler specified in § 1045.11 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of producer milk;

7. Section 1045.32 is revised to read as follows:

#### § 1045.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to

the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

8. Section 1045.41(b) (5) is revised to read as follows:

#### § 1045.41 Classes of utilization.

(b) \* \* \*

(5) Skim milk and butterfat, respectively, in shrinkage but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 2.0 percent of receipts of fluid milk products subject to allocation pursuant to § 1045.46(a) (7) and the corresponding step of § 1045.46(b); and

(iii) Less 2.0 percent of fluid milk products transferred in bulk to other order plants; and

9. Section 1045.42 is revised to read as follows:

#### § 1045.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of the skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1045.41(b) (5); and

(2) Other source milk exclusive of that specified in § 1045.41(b) (5).

10. Section 1045.43 is revised to read as follows:

#### § 1045.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computation pursuant to § 1045.46(a) (7) and the corresponding step of § 1045.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1045.46(a) (3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1045.46(a) (7) and the corresponding step of § 1045.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-hand-

dler or to an exempt handler pursuant to § 1045.81;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is not an other order plant, a producer-handler plant or the plant of an exempt handler, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1045.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(d) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall

be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

11. Section 1045.46 is revised to read as follows:

**§ 1045.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1045.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1045.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operators of both plants;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to

such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1045.43(a);

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

**§§ 1045.47, 1045.48 [Revocations]**

12. Sections 1045.47 and 1045.48 are revoked.

13. Section 1045.60 is revised to read as follows:

**§ 1045.60 Computation of the net pool obligation of each handler.**

The net pool obligation of each handler in his capacity as the operator of a pool plant or a handler pursuant to § 1045.11(c) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1045.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1045.46(a)(9) and the corresponding step of § 1045.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1045.46(a)(5) and the corresponding step of § 1045.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1045.46(a)(3) and the corresponding step of § 1045.46(b);

(e) Add the value at the Class I price, adjusted for location of the nonpool plant(s) from which an equivalent

volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1045.46(a) (7) (i) and the corresponding step of § 1045.46(b); and

(f) Add the value at the applicable class prices of the skim milk and butterfat subtracted from each class pursuant to § 1045.46(a) (7) (iii) and the corresponding step of § 1045.46(b).

14. Section 1045.61 (b) and (c) is revised to read as follows:

§ 1045.61 Computation of aggregate value used to determine uniform price.

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount computed by multiplying such difference by the butterfat differential computed pursuant to § 1045.63 and multiplying the result by the total hundredweight of such milk;

(c) Subtract the aggregate of the values of the applicable location adjustments pursuant to § 1045.64; and

15. Section 1045.62 is revised to read as follows:

§ 1045.62 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1045.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which values are computed pursuant to § 1045.60 (e) and (f); and

(b) Subtract not less than four nor more than five cents from the price computed pursuant to paragraph (a) of this section.

§§ 1045.63 and 1045.65 [Redesignations]

16. Sections 1045.64, 1045.65 and 1045.66 are redesignated §§ 1045.63, 1045.64 and 1045.65, respectively, and § 1045.64 is revised to read as follows:

§ 1045.64 Location differentials to producers and on nonpool milk.

The uniform price pursuant to § 1045.62 shall be increased 10 cents for milk received at a plant in the Wisconsin counties of Florence, Forest, Marinette, Oneida or in the State of Michigan.

§ 1045.70 [Amendment]

17. In § 1045.70 the references to "§§ 1045.64" and "1045.65" are deleted and "§§ 1045.63" and "1045.64", respectively, are substituted therefor.

§ 1045.71 [Amendment]

18. In § 1045.71 the reference to "1045.83 (a) (1) and (b) (1)" is deleted and "1045.83" is substituted therefor.

19. Section 1045.72 is revised to read as follows:

§ 1045.72 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month each handler shall pay

to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section;

(a) The net pool obligation computed pursuant to § 1045.60 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1045.60 (e) and (f).

20. Section 1045.73 is revised to read as follows:

§ 1045.73 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1045.72 (b) exceeds the amount computed pursuant to § 1045.72 (a).

(a) If the balance in the producer-settlement fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

21. Section 1045.74 is revised to read as follows:

§ 1045.74 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1045.46(a) (3) and (7) (i) and the corresponding steps of § 1045.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

22. Section 1045.83 is revised to read as follows:

§ 1045.83 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1045.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:  
(1) The obligation that would have been computed pursuant to § 1045.60 at

such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1045.10(b) shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such plant to a pool plant or an other order plant shall be valued at the Class II price if allocated to such class at the pool plant or other order plant and of the respective order at the uniform price if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant which serves as a supply plant and meets requirements equivalent to § 1045.10(b) and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:  
(1) Determine the respective amount of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1045.62 at the same location or at the Class II price, whichever is higher.

23. The introductory text of § 1045.31 is revised to read as follows:

§ 1045.31 Payroll reports.

On or before the 25th day of each month each handler pursuant to § 1045.11 (a), (b) and (c) shall report his producer or dairy farmer payroll for each plant for the preceding month which shall show:

## PART 1050—MILK IN CENTRAL ILLINOIS MARKETING AREA

1. Section 1050.7 is revised to read as follows:

§ 1050.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who, in compliance with the Grade A inspection requirements of a duly constituted health authority, produces milk for distribution as fluid milk products or produces milk ac-



ceptable for fluid consumption at Federal, State or municipal institutions, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1050.14.

2. In § 1050.8, paragraph (b) is revised and a new paragraph (e) is added to read as follows:

**§ 1050.8 Handler.**

(b) Any person who operates a partially regulated distributing plant;

(e) A producer-handler, or any person who operates an other order plant.

3. Section 1050.13 is revised to read as follows:

**§ 1050.13 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant nor a producer-handler plant.

4. Section 1050.30 is revised to read as follows:

**§ 1050.30 Reports of receipts and utilization.**

Not later than the 8th day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant(s) shall report for each pool plant(s) and a cooperative association which is a handler pursuant to § 1050.8 (c) or (d) shall likewise report the quantities of skim milk and butterfat contained in:

(1) Receipts of milk from producers, including receipts of the handler's own production;

(2) The quantities of skim milk and butterfat contained in milk and milk products received from other pool plants

and from a cooperative association which is a handler pursuant to § 1050.8(d);

(3) The quantities of skim milk and butterfat contained in other source milk, including milk which has been classified and priced under other Federal orders;

(4) The inventories of skim milk and butterfat on hand at the beginning and the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported by this section, including a separate statement of the disposition of Class I milk outside the marketing area;

(6) The name and address of each producer from whom milk was received with statements showing dates on which such producer started shipping and the date on which milk shipments stopped; and

(7) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require; and

(b) Each handler specified in § 1050.8 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk.

5. Section 1050.31 (b) is revised to read as follows:

**§ 1050.31 Payroll reports.**

(b) Each handler operating a partially regulated distributing plant (except a handler making payments pursuant to § 1050.62(b)) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received; the same information as required pursuant to paragraph (a) of this section.

6. Section 1050.32 is revised to read as follows:

**§ 1050.32 Other reports.**

(a) Each producer-handler and each handler pursuant to § 1050.61 shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

7. In § 1050.41, paragraph (b) (7) and (8) is revised to read as follows:

**§ 1050.41 Classes of utilization.**

(b) \* \* \*

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1050.42(b)(1), but not to exceed the following: Two percent of milk received directly from producers, plus one and one-half percent of milk received in bulk tank lots from pool plants of other handlers, from other order plants and unregulated supply plants to be allocated

pursuant to § 1050.46(a) (7) and (8) and the corresponding steps of § 1050.46(b), plus one and one-half percent of milk received from a cooperative association which is the handler for such milk pursuant to § 1050.8(d) (except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentages shall be two percent), less one and one-half percent of milk disposed of in bulk tank lots to plants of other handlers and to nonpool plants (except when the preceding exception hereof applies and the milk is diverted, the applicable percentage shall be two percent); and

(8) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1050.42(b) (2).

8. Section 1050.42 is revised to read as follows:

**§ 1050.42 Shrinkage.**

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat, respectively, in the receipts used in the computations pursuant to § 1050.41(b) (7); and (2) skim milk and butterfat in other source milk in fluid form, exclusive of that specified in § 1050.41(b) (7).

9. Section 1050.44 is revised to read as follows:

**§ 1050.44 Transfers.**

Skim milk and butterfat disposed of by a handler, including a cooperative association in its capacity as a handler pursuant to § 1050.8 (c) and (d), to another plant shall be classified:

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1050.46(a) (8) and the corresponding step of § 1050.46 (b). If a specified utilization is not claimed by both handlers, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is a handler pursuant to § 1050.8(d), shall be classified pro rata to the respective amounts remaining in each class for such month at the pool plant of the receiving handler after the computation pursuant to § 1050.46(a) (8) and the corresponding step of § 1050.46 (b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1050.46(a) (3) and the corresponding step of (b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1050.46(a) (7) and (8) and the corresponding steps of (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 450 miles by the shortest highway distance as determined by the market administrator, from the City Hall of Peoria, Illinois, except that cream so transferred may be classified as Class II if the handler claims Class II use and establishes that such cream was transferred to a nonpool plant without Grade A certification and that each container was labeled or tagged to indicate that the contents were for manufacturing use and that the shipment was so invoiced;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 450 miles, by the shortest highway distance as determined by the market administrator, from the City Hall of Peoria, Illinois, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1050.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to

receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk; and

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred or diverted to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

10. Section 1050.46 is revised to read as follows:

**§ 1050.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1050.45, the market administrator shall determine the classification of producer milk at each pool plant as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1050.41(b) (7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of shrinkage classified as Class I) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler.

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph; and

(ii) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph.

Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers and cooperative associations according to the classification assigned pursuant to § 1050.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1050.53 is revised to read as follows:

**§ 1050.53 Location adjustments to handlers.**

(a) For milk from producers and for other source milk for which a location adjustment credit is applicable which is received at a pool plant located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Henderson, Warren, Knox, Stark, Marshall, Woodward, Livingston, Ford and Iroquois, and which is transferred to another pool plant in the form of fluid milk products and assigned to Class I pursuant to this section, or otherwise classified as Class I, the price specified in § 1050.51(a) shall be reduced 7.5 cents if such plant is 50 or more miles by the shortest accessible highway distance, as determined by the market administrator from the City Hall in Peoria, Illinois, plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products from handler pool other plants shall be assigned Class I disposition at the transferee plant only to the extent that 105 percent of Class I disposition at

the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1050.8(d), and the volume assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

12. A new § 1050.62 is added to read as follows:

**§ 1050.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1050.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1050.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1050.12(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets the requirements equivalent to § 1050.12(b), and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

13. Section 1050.70 is revised to read as follows:

**§ 1050.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1050.46(c), by the applicable class prices (adjusted pursuant to §§ 1050.52 and 1050.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1050.46(a)(10) and the corresponding step of § 1050.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.46(a)(5) and the corresponding step of § 1050.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1050.46(a)(3) and the corresponding step of § 1050.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1050.46(a)(8)(ii) and the corresponding step of § 1050.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1050.46(a)(7) and the corresponding step of § 1050.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1050.53(b).

14. Section 1050.71 is revised to read as follows:

**§ 1050.71 Computation of uniform prices.**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at pool plants at which no location adjustments are applicable as follows:

(a) Combine into one total the values computed pursuant to § 1050.70 for all handlers who filed the reports prescribed by § 1050.30 for the month and who made the payments pursuant to §§ 1050.80 and 1050.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1050.73;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1050.72 and multiplying the result by the total hundredweight of such milk;

(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 values are computed pursuant to § 1050.70 (e) and (f);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June and July, an amount equal to 10 cents per hundredweight on the total hundredweight of producer milk specified in paragraph (e)(1) of this section;

(i) Add during each of the months of October, November and December, one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

15. Section 1050.73 is revised to read as follows:

**§ 1050.73 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1050.53; and

(b) For purposes of computations pursuant to §§ 1050.82 and 1050.83 the weighted average price shall be adjusted at the rates set forth in § 1050.53 applicable at the location of the nonpool plant from which the milk was received.

16. Section 1050.81 is revised to read as follows:

**§ 1050.81 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which he shall deposit all payments made by handlers pursuant to §§ 1050.62 (a) and (b), 1050.82, and 1050.84 and out of which he shall make all payments pursuant to §§ 1050.83 and 1050.84: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

17. Section 1050.82 is revised to read as follows:

**§ 1050.82 Payments to the producer-settlement fund.**

On or before the 15th day after the end of the month each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section;

(a) The total of the net pool obligation computed pursuant to § 1050.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1050.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1050.70 (e) and (f).

18. Section 1050.83 is revised to read as follows:

**§ 1050.83 Payments out of the producer-settlement fund.**

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1050.82(b) exceeds the amount computed pursuant to § 1050.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payment pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

19. Section 1050.86 is revised to read as follows:

**§ 1050.86 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 20th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1050.46(a)(3) and § 1050.46(a)(8) (ii) and the corresponding steps of § 1050.46 (b), and (c) packaged Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk re-

ceived during the month at such plant from pool plants and other order plants.

**PART 1051—MILK IN MADISON, WISCONSIN, MARKETING AREA**

1. Section 1051.7 is revised to read as follows:

**§ 1051.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act or a dairy farmer whose milk is received at a plant of a state educational institution during the month, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

2. Section 1051.10 is revised to read as follows:

**§ 1051.10 Fluid milk plant.**

"Fluid milk plant" means:

(a) A pool plant, or

(b) A partially regulated distributing plant.

3. Section 1051.12 is revised to read as follows:

**§ 1051.12 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

4. Section 1051.36 is revised to read as follows:

**§ 1051.36 Other reports.**

(c) Each handler pursuant to § 1051.36 (a), (b) and (c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer:

- (1) His identity;
  - (2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;
  - (3) The average butterfat content of such milk; and
  - (4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.
- (d) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

5. Section 1051.41(b) (6) is revised to read as follows:

§ 1051.41 Classes of utilization.

- (b) \* \* \*
- (6) Skim milk and butterfat, respectively (except in milk diverted to a nonpool plant pursuant to § 1051.15), in shrinkage but not in excess of:
- (i) 2.0 percent of producer milk (except that received from a handler pursuant to § 1051.13(c));
  - (ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1051.13(c): *Provided*, That if the handler receiving such producer milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2.0 percent;
  - (iii) Plus 1.5 percent of bulk fluid milk products from pool plants;
  - (iv) Plus 1.5 percent of fluid milk products subject to allocation pursuant to § 1051.46(a) (7) and (8) and the corresponding steps of § 1051.46(b); and
  - (v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

6. Section 1051.42 is revised to read as follows:

§ 1051.42 Shrinkage.

- (b) \* \* \*
- (1) The net quantity of producer milk and other fluid milk products specified in § 1051.41(b) (6).
  - (2) Other source milk exclusive of that specified in § 1051.41(b) (6).
- § 1051.41(b) (6); and

7. Section 1051.44 is revised to read as follows:

§ 1051.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

- (a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to another pool plant, subject in either event to the following conditions:

- (1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1051.46(a) (8)

and the corresponding step of § 1051.46 (b);

- (2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1051.46(a) (3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

- (3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1051.46(a) (7) and (8) and the corresponding steps of § 1051.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

- (b) As Class I milk, if transferred from a pool plant to a producer-handler;

- (c) As Class I milk, if transferred or diverted to a nonpool plant that is not an other order plant and is more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of LaCrosse and Madison, Wisconsin;

- (d) As Class I if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of LaCrosse and Madison, Wisconsin, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

- (1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1051.35 for the month within which such transaction occurred;

- (2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

- (3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

- (i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

- (ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regu-

lated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

- (iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

- (iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

- (e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

8. Section 1051.46 is revised to read as follows:

§ 1051.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1051.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

- (a) Skim milk shall be allocated in the following manner:

- (1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1051.41(b) (6);

- (2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

- (i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

- (ii) From Class I milk, the remainder of such receipts;

- (3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

- (i) Other source milk in a form other than that of a fluid milk product;

- (ii) Receipts of non-Grade A fluid milk products; and

- (iii) Receipts of fluid milk products from producer-handler plants;

- (4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of shrinkage classified as Class I), at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph; and

(ii) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not

subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph.

Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1051.44;

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in produced milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

#### § 1051.47 [Revocation]

9. Section 1051.47 is revoked.

10. Section 1051.53 is revised to read as follows:

#### § 1051.53 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant less than 70 miles from the Chicago City Hall shall be increased 4 cents and at a fluid milk plant 145 miles or more from the Chicago City Hall shall be decreased 2 cents for each 15 miles or fraction thereof that such plant is more than 130 miles from the Chicago City Hall, as determined by the market administrator; *Provided*, That the differential pursuant to this section shall be not more than 8 cents at a plant in the marketing area; and

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants and handler pool other order plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from market pool other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the City Hall in Chicago, Illinois.

#### § 1051.55 [Revocation]

11. Section 1051.55 is revoked.

12. Section 1051.60 is revised to read as follows:

#### § 1051.60 Computation of the net pool obligation for each pool plant.

The net pool obligation for each pool plant during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1051.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the average deducted from each class pursuant to § 1051.46(a)(10) and the corresponding step of § 1051.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1051.46(a)(5) and the corresponding step of § 1051.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1051.46(a)(3) and the corresponding step of § 1051.46(b);

(e) Add the value at the Class I price, adjusted for location of the nearest non-pool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1051.46(a)(8)(ii) and the corresponding step of § 1051.46(b); and

(f) Add the value at the applicable class prices of the skim milk and butterfat subtracted from each class pursuant to § 1051.46(a)(7) and the corresponding step of § 1051.46(b).

13. Section 1051.61 (b), (c) and (d) is revised to read as follows:

#### § 1051.61 Computation of aggregate value used to determine uniform prices.

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent an amount computed by multiplying such difference by the butterfat differential pursuant to § 1051.71 and multiplying the result by the total hundredweight of such milk;

(c) Subtract an amount equal to the sum of the location differential additions to be made pursuant to § 1051.72;

(d) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 1051.72; and

14. Section 1051.62 is revised to read as follows:

#### § 1051.62 Computation of uniform price.

For each month, the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1051.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which values are computed pursuant to § 1051.60 (e) and (f); and

(b) Subtract not less than four nor more than five cents from the price computed pursuant to paragraph (a) of this section.

#### § 1051.63 [Amendment]

15. In § 1051.63(d), "all" is deleted and "producer" is substituted therefor.

16. Section 1051.64 is revised to read as follows:

#### § 1051.64 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant (except the plant of a state educational institution) shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraphs (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1051.35 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1051.60 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1051.11(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such plant(s) to a pool plant or an other order plant shall be valued at the Class II price if allocated to such class at the pool plant or other order plant and at the uniform price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1051.11(b), and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1051.62 at the same location or at the Class II price, whichever is higher.

17. Section 1051.72 is revised to read as follows:

#### § 1051.72 Location differentials to producers and on nonpool milk.

(c) For purposes of computations pursuant to §§ 1051.74 and 1051.75, the uniform price shall be adjusted at the rates set forth in § 1051.53 applicable at the location of the nonpool plant from which the milk was received.

18. Section 1051.74 is revised to read as follows:

#### § 1051.74 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1051.60 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1051.70; and

(2) The value at the uniform price pursuant to § 1051.62 applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1051.60 (e) and (f).

19. Section 1051.75 is revised to read as follows:

#### § 1051.75 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1051.74(b) exceeds the amount computed pursuant to § 1051.60.

20. Section 1051.78 is revised to read as follows:

#### § 1051.78 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1051.46 (a) (3) and (8) (ii) and the corresponding steps of § 1051.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

21. In § 1051.13, "or" is deleted from the end of paragraph (b), a comma is substituted for the period at the end of paragraph (c), and new paragraphs (d) and (e) are added to read as follows:

#### § 1051.13 Handler.

(d) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant, or

(e) A producer-handler.

22. The introductory text of § 1051.35 is revised to read as follows:

#### § 1051.35 Report of receipts and utilization.

On or before the 7th day after the end of each month, each handler pursuant to § 1951.13 (a) and (b) shall report to the market administrator for such month, reporting separately for each fluid milk plant, in detail and on forms prescribed by the market administrator:

### PART 1061—MILK IN ST. JOSEPH, MISSOURI, MARKETING AREA

1. Section 1061.7 is revised to read as follows:

#### § 1061.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, or a person who is a producer on the same milk under the terms of another order issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1061.14.

2. In § 1061.8, paragraph (a) is revised and paragraphs (d) and (e) are added to read as follows:

#### § 1061.8 Handler.

(a) Any person in his capacity as the operator of a pool plant;

(d) Any person who operates a partially regulated distributing plant; and

(e) A producer-handler, any person who operates a supply plant which is not a pool plant, or any person who operates another order plant.

3. Section 1061.13 is revised to read as follows:

#### § 1061.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products derived from approved milk are distributed on routes in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products derived from approved milk are moved during the month to a pool plant qualified pursuant to § 1061.12 and which is not an other order plant nor a producer-handler plant.

4. In § 1061.30, paragraph (e) is added to read as follows:

§ 1061.30 Reports of receipts and utilization.

(e) Each handler specified in § 1061.8 (d) who operates a partially regulated distributing plant shall report as required in paragraphs (a) through (d) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers.

5. Section 1061.32 is revised to read as follows:

§ 1061.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler who causes producer milk to be diverted to any plant shall report, prior to such diversion, to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(c) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of the product shipped.

6. In § 1061.41, subdivision (iii) of paragraph (b) (6) is revised to read as follows:

§ 1061.41 Classes of utilization.

(b) \* \* \*

(6) \* \* \*

(iii) One and one-half percent of milk received in bulk from pool plants of other handlers, from other order plants and unregulated supply plants to be allocated pursuant to § 1061.46(a) (7) and the corresponding step of § 1061.46 (b), and from cooperative associations pursuant to § 1061.8(c), unless two percent shrinkage is assigned pursuant to subdivision (ii) of this subparagraph; less

7. In § 1061.42, subparagraph (b) (2) is revised to read as follows:

§ 1061.42 Shrinkage.

(b) \* \* \*

(2) The pounds of skim milk and butterfat in other source milk received in the form of bulk fluid milk products, exclusive of that specified in § 1061.41 (b) (6).

8. Section 1061.44 is revised to read as follows:

§ 1061.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants or by the handler pursuant to § 1061.8(c) and the plant operator, otherwise as Class I milk, if transferred or diverted in bulk fluid form from a pool plant or from a handler pursuant to § 1061.8(c) to the pool plant of another handler, except as provided in paragraph (d) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned in either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1061.46(a) (7) and the corresponding step of § 1061.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1061.46(a) (3) and the corresponding step of § 1061.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1061.46(a) (7) and the corresponding step of § 1061.46 (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1061.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of an other order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(d) If a specified utilization is not claimed by both handlers, subject to paragraph (a) of this section, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is a handler pursuant to § 1061.8(c) shall be classified pro rata to the respective amounts remaining in each class for such month at the pool plant of the receiving handler after the computations pursuant to § 1061.46(a) (8) and the corresponding step of (b); and

(e) In the class to which allocated under the terms of the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. With respect to bulk transfers, if the operators of both the transferor and the transferee plant so request in the reports of receipts and utilization filed with the respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

9. Section 1061.46 is revised to read as follows:

§ 1061.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1061.45, the market adminis-



trator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1061.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants, from cooperative handlers pursuant to § 1061.8(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph

(4) (i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pur-

suant to subparagraph (4) (ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1061.44(a);

(9) Subtract pro rata from the pounds of skim milk remaining in each class, the pounds of skim milk to be classified pursuant to § 1061.44(d).

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

#### § 1061.47 [Revocation]

10. Section 1061.47 is revoked.

11. Section 1061.53 is revised to read as follows:

#### § 1061.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 50 miles by shortest highway distance as measured by the market administrator, from the nearer of the City Halls in St. Joseph, Missouri, and Sabetha, Kansas, and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which a location adjustment is applicable, the price computed pursuant to § 1061.51(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles;

(b) For purposes of calculating such adjustment, bulk transfers between pool plants and fluid milk products received in bulk from handler pool other order plants shall be assigned to the Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1061.8(c), and the pounds assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

#### § 1061.54 [Revocation]

12. Section 1061.54 is revoked.

13. Section 1061.61 is revised to read as follows:

#### § 1061.61 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to

the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1061.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1061.70 at the partially regulated distributing plant and at any other nonpool plant(s) which serves as a supply plant(s) for the partially regulated distributing plant and meets requirements equivalent to § 1061.12(b) by shipment to the partially regulated distributing plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by the operator of the partially regulated distributing plant for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1061.12(b) by shipment to the partially regulated distributing plant and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area; and

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class II price).

14. Section 1061.70 is revised to read as follows:

#### § 1061.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1061.46(c), by the applicable class prices (adjusted pursuant to §§ 1061.52 and 1061.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1061.46(a)(10) and the corresponding step of § 1061.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1061.46(a)(5) and the corresponding step of § 1061.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1061.46(a)(3) and the corresponding step of § 1061.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1061.46(a)(7)(i) and the corresponding step of § 1061.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1061.46(a)(7)(iii) and the corresponding step of § 1061.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1061.53.

15. Section 1061.71 is revised to read as follows:

**§ 1061.71 Computation of uniform prices.**

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1061.70 for all handlers who filed the reports prescribed by § 1061.30 for the month and who made the payments pursuant to §§ 1061.80 and 1061.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1061.73;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1061.72 and multiplying the result by the total hundredweight of such milk;

(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 values are computed pursuant to § 1061.70 (e) and (f);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

16. Section 1061.73 is revised to read as follows:

**§ 1061.73 Location differentials to producers and on nonpool milk.**

(a) In making payments to producers for milk received at a pool plant located more than 50 miles by the shortest highway distance, as determined by the market administrator, from the City Hall in either St. Joseph, Missouri, or Sabetha, Kansas, whichever is nearer, there shall be deducted 10 cents per hundredweight of milk for distances of more than 50 but not more than 60 miles, plus an additional one and one-half cents for each additional 10 miles or fraction thereof in excess of 60 miles.

(b) For purposes of computations pursuant to §§ 1061.82 and 1061.83 the uniform price shall be adjusted at the rates set forth in § 1061.53 applicable at the location of the nonpool plant from which the milk was received.

**§ 1061.81 [Amendment]**

17. In § 1061.81 the designations "1061.81 (a) (1) and (b) (1)" are changed to "1061.81 (a) and (b)".

18. Section 1061.82 is revised to read as follows:

**§ 1061.82 Payments to the producer-settlement fund.**

On or before the 14th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1061.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1061.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1061.70 (e) and (f).

19. Section 1061.83 is revised to read as follows:

**§ 1061.83 Payments out of the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1061.82(b) exceeds the amount computed pursuant to § 1061.82(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 payment and shall compute such payments as soon as the necessary funds are available.

20. Section 1061.86 is revised to read as follows:

**§ 1061.86 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk received by a pool plant operator (including such handler's own production), (b) milk received from a cooperative association as a handler pursuant to § 1061.8(c), (c) producer milk of a cooperative association handler pursuant to § 1061.8 (b) and (c) except that transferred or diverted to a pool plant operator, (d) other source milk allocated to Class I pursuant to § 1061.46(a)(3) and (7)(i) and the corresponding steps of § 1061.46 (b), and (e) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plants from pool plants and other order plants.

**PART 1062—MILK IN ST. LOUIS, MISSOURI, MARKETING AREA**

1. Section 1062.7 is revised to read as follows:

**§ 1062.7 Producer.**

"Producer" means any person, other than a dairy farmer for other markets or a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1062.14.

**§ 1062.10 [Amendment]**

2. In § 1062.10 the references to "§ 1062.12(c)" are revised whenever they appear to "§ 1062.12(d)".

3. Section 1062.11 is revised to read as follows:

**§ 1062.11 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated city plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated country plant" means a nonpool plant that is a country plant and is not an other order plant nor a producer-handler plant.

4. Section 1062.12 is revised to read as follows:

#### § 1062.12 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person who operates a partially regulated city plant;

(c) Any cooperative association with respect to milk from producers diverted for its account from a pool plant to a nonpool plant;

(d) Any cooperative association with respect to the milk of its members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association, if the cooperative association, prior to assuming the function as the handler furnishes written notice to the market administrator and to the handler to whose plant the milk is delivered, that it will be the handler for the milk. The written notice shall specify the day on which and the period for which the cooperative association shall assume the function of handler. Milk so delivered shall be deemed to have been received by the cooperative association at the pool plant to which it is delivered; and

(e) A producer-handler, or any person who operates an other order plant.

5. Section 1068.14 is revised to read as follows:

#### § 1062.14 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk (a) received at a pool plant from producers, or from a cooperative association in its capacity as a handler pursuant to § 1062.12(d), or (b) diverted from a pool plant to a nonpool plant which is not a pool plant under the terms of another order issued pursuant to the Act:

(1) By a cooperative association in its capacity as a handler pursuant to § 1062.12(c) any number of days during the months of March through July or for a period not in excess of 16 days' production during each of the months of August through February; or

(2) By a handler who operates a pool plant any number of days during the months of March through July: *Provided*, That milk so diverted pursuant to subparagraphs (1) and (2) of this paragraph shall be deemed to have been re-

ceived at the plant from which diverted, except that milk diverted from a pool city plant to a nonpool plant located more than 110 airline miles from the City Hall in St. Louis and which is located in the surplus disposal area designated in § 1062.43(c) (1) shall be deemed to have been received at a pool plant at the same location as the nonpool plant to which diverted.

#### §§ 1062.25-1062.27. [Redesignations]

6. The provisions contained in §§ 1062.20 through 1062.22 under center-head "Market Administrator" are renumbered as §§ 1062.25 through 1062.27 and a new § 1062.20 is added to read as follows:

#### § 1062.20 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, milk drinks (plain or flavored), concentrated milk, fortified milk or skim milk, reconstituted milk or skim milk, cream (sweet or sour) and mixtures of milk, skim milk or cream (except frozen dessert mixes; eggnog, aerated cream, sterilized products in hermetically sealed containers, and cultured sour mixtures to which cheese or another food substance other than a milk product has been added and which contain not more than 15 percent butterfat).

7. Section 1062.30 is revised to read as follows:

#### § 1062.30 Reports of receipts and utilization.

(a) On or before the 7th day after the end of each month each handler for each of his pool plants, and each association in its capacity as a handler pursuant to § 1062.12 (c) and (d) shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in:

(i) Producer milk;

(ii) Milk in the form of Class I products received from pool plants;

(iii) Other source milk;

(2) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 1062.14;

(3) The quantities of skim milk and butterfat contained in inventories of Class I products on hand at the beginning and end of the month;

(4) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including a separate statement of the disposition of Class I milk outside the marketing area;

(5) The name and address of each producer from whom milk was not received during the previous month, and the date on which milk was first received from such producer;

(6) The name and address of each producer who discontinues deliveries of milk, and the date on which milk was last received from such producer; and

(7) Such other information with respect to receipts and utilization of skim milk and butterfat as the market administrator may prescribe; and

(b) Each handler specified in § 1062.12 (b) who operates a partially regulated city plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk.

8. Section 1062.31 is revised to read as follows:

#### § 1062.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of the product shipped.

9. Section 1062.32 is revised to read as follows:

#### § 1062.32 Reports of milk received from producers.

(a) On or before the 25th day of each month, each handler except a handler pursuant to § 1062.12(b), shall report to the market administrator, on forms approved by the market administrator his producer payroll, which shall show the total pounds of milk received from each producer during the first 15 days of such month;

(b) On or before the 20th day after the end of each month each handler, except a handler pursuant to § 1062.12 (b), shall report to the market administrator for such month on forms approved by the market administrator, his producer payroll, which shall show for each producer from whom milk was received;

(1) The total pounds and butterfat content of milk received from such producer;

(2) The price and the total amount paid for milk received from such producer, together with the amount and nature of any deduction; and

(3) The amount and nature of payments made pursuant to §§ 1062.80 and 1062.86.

(c) Each handler operating a partially regulated city plant who does not elect to make payments as required pursuant to § 1062.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received the same information as required in paragraph (b) (1) and (2) of this section.

10. Section 1062.41 is revised to read as follows:

#### § 1062.41 Classes of utilization.

Subject to the conditions set forth in §§ 1062.42 and 1062.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified

product of the same butterfat content); and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Accounted for and used to produce any product other than those specified as Class I in paragraph (a)(1) of this section;

(2) In inventory of products designated as Class I milk in paragraph (a) of this section on hand at the end of the month;

(3) The weight of skim milk in fortified fluid milk products which is expected from Class I pursuant to paragraph (a)(1) of this section;

(4) In shrinkage of skim milk and butterfat, respectively, but not to exceed the following: Two percent of milk received from dairy farmers exclusive of that diverted pursuant to § 1062.14, plus one and one-half percent of milk received in bulk tank lots from pool plants of other handlers and from other order plants and unregulated country plants to be allocated pursuant to § 1062.45(a)(7) and the corresponding step of § 1062.45(b), less one and one-half percent of milk disposed of in bulk tank lots to plants of other handlers and to nonpool plants (exclusive of milk diverted pursuant to § 1062.7); and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1062.46(b)(2).

11. Section 1062.43 is revised to read as follows:

#### § 1062.43 Transfers.

Skim milk and butterfat transferred or diverted as any product designated in § 1062.20 from a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1062.12 (c) and (d) shall be classified as follows:

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1062.45(a)(7) and the corresponding step of § 1062.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1062.45(a)(3) and the corresponding step of § 1062.45(b) the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor handler received during month other source milk to be allocated pursuant to § 1062.45(a)(7) and the corresponding step of § 1062.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) If the transfer is by a cooperative association, the skim milk and butterfat

so transferred shall be allocated pro rata to each class in the proportion remaining after the subtraction pursuant to § 1062.45(a)(7) and the corresponding step of § 1062.45(b);

(b) As Class I milk, if transferred to a producer-handler;

(c) As Class I milk (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (f) of this section) if moved to a nonpool plant which is not an other order plant or the plant of a producer-handler unless the requirements of subparagraphs (1), (2) and (3) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment set forth in subparagraph (4) of this paragraph:

(1) The transferee plant is located within 110 airline miles from the City Hall in St. Louis, Missouri, or in the State of Missouri south of the Missouri River or in Fulton County, Arkansas;

(2) The transferor-handler claims classification of such skim milk and butterfat in Class II in his report submitted pursuant to § 1062.30;

(3) The operator of the transferee plant maintains books and records showing the utilization of all skim milk and butterfat received in any form at such plant, which are made available if requested by the market administrator for the purpose of verification;

(4) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(d) As Class I milk (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (f) of this section) if moved in bulk to a nonpool plant that is neither an other

order plant nor the plant of a producer-handler and which is not located within that portion of the State of Missouri south of the Missouri River nor within Fulton County, Arkansas, and is more than 110 airline miles from the City Hall in St. Louis, Missouri;

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If, for bulk shipments, the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment; and

(f) As Class II milk if moved in fluid form as cream to a nonpool plant which is neither an other order plant nor a producer-handler plant and which is not located within the area specified in paragraph (c)(1) of this section; if the following conditions are met:

(1) The transferor handler establishes that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment.

#### § 1062.44 [Amendment]

12. The section references contained in § 1062.44 are revised as follows: "§ 1062.12(c)" is revised to read "§ 1062.12(d)" and "§ 1062.12(b)" is revised to read "§ 1062.12(c)".

13. Section 1062.45 is revised to read as follows:

#### § 1062.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1062.44, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1062.41(b)(4);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants.

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated country plant and from dairy farmers for other markets:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated country plants and from dairy farmers for other markets that were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants and cooperative associations according to the classification assigned pursuant to § 1062.43(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and deter-

mine the weighted average butterfat content of producer milk in each class.

14. The provision formerly contained in § 1062.46 is now included in § 1062.45 (c) and § 1062.46 is deleted. A new § 1062.46 which reads as follows is added:

**§ 1062.46 Shrinkage.**

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat in amounts respectively used in the computations pursuant to § 1062.41(b)(4); and (2) skim milk and butterfat in other source milk in fluid form, exclusive of that specified in § 1062.41(b)(4).

15. Section 1062.52 is revised to read as follows:

**§ 1062.52 Location adjustments to handlers.**

(a) For producer milk which is received at a pool plant located more than 30 airline miles from the City Hall in St. Louis, Missouri, which is classified as Class I milk, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1062.51(a) shall be reduced at the rate set forth in the following schedule:

Distance (miles):	Rate per hundred-weight (cents)
More than 30 but not more than 40 miles.....	16
For each additional 10 miles or fraction thereof an additional.....	1

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of the receipts at such plant from producers and cooperative associations pursuant to § 1062.12(d), and the volume assigned as Class I to receipts from market pool other order plants and unregulated country plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

**§ 1062.53 [Amendment]**

15a. In the introductory text preceding paragraph (a) of § 1062.53 the reference to "§ 1062.46" is changed to "§ 1062.45 (c)".

**§ 1062.55 [Revocation]**

16. Section 1062.55 is revoked.

17. Section 1062.62 is revised to read as follows:

**§ 1062.62 Obligations of handler operating a partially regulated city plant.**

Each handler who operates a partially regulated city plant shall pay to the market administrator for the producer-set-

tlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects at the time of reporting pursuant to § 1062.30 to pay amounts computed pursuant to paragraph (b) of this section;

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1062.70 at such plant and at any other nonpool plant(s) which serves as a country plant(s) for such plant and meets requirements equivalent to § 1062.10(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant which serves as a country plant and meets requirements equivalent to § 1062.10(b), and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated city plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated city plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

18. Section 1062.70 is revised to read as follows:

**§ 1062.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1062.45(c), by the applicable class prices (adjusted pursuant to §§ 1062.52 and 1062.53);

(b) Add the amount obtained from multiplying the pounds of overage de-

ducted from each class pursuant to § 1062.45(a)(9) and the corresponding step of § 1062.45(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1062.45(a)(5) and the corresponding step of § 1062.45(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1062.45(a)(3) and the corresponding step of § 1062.45(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1062.45(a)(7)(i) and the corresponding step of § 1062.45(b); and

(f) Add the value of the skim milk and butterfat respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1062.45(a)(7)(iii), and the corresponding steps of § 1062.45(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1062.52.

19. Section 1062.71 is revised to read as follows:

**§ 1062.71 Computation of uniform prices.**

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.70 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to § 1062.80 and § 1062.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1062.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1062.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to 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 values are computed pursuant to § 1062.70 (e) and (f);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June and July an amount equal to 10 cents per hundredweight on the total amount of producer milk included in these computations, to be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of October, November and December one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

20. Section 1062.82 is revised to read as follows:

**§ 1062.82 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1062.52; and

(b) For purposes of computations pursuant to §§ 1062.84 and 1062.85 the weighted average price shall be adjusted at the rates set forth in § 1062.52 applicable at the location of the nonpool plant from which the milk was received.

21. Section 1062.84 is revised to read as follows:

**§ 1062.84 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1062.70 for such handler.

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform price specified in § 1062.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1062.70 (e) and (f).

22. Section 1062.85 is revised to read as follows:

**§ 1062.85 Payments out of the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1062.84(b) exceeds the amount computed pursuant to § 1062.84(a), less any unpaid balances due the market administrator from such handler pursuant to §§ 1062.84, 1062.86, 1062.87, or 1062.88: *Provided*, That if the unobligated balance in the producer-settlement fund is insufficient to make full payment to all handlers entitled to payment pursuant to this paragraph, the market administrator shall reduce such payments at a uniform rate and shall complete such payments as soon as the appropriate funds are available.

23. Section 1062.87 is revised to read as follows:

**§ 1062.87 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month two and one-half cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1062.45(a)(3) and (7)(i) and the corresponding steps of § 1062.45(b), and (c) Class I milk disposed of on routes in the marketing area from partially regulated city plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1063—MILK IN QUAD CITIES-DUBUQUE MARKETING AREA**

1. Section 1063.7 is revised to read as follows:

**§ 1063.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant.

2. Section 1063.11 is revised to read as follows:

**§ 1063.11 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regu-

lation under another Federal order with provision for handler pooling.

(b) "Produced-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

3. In § 1063.12, a new paragraph (d) is added and reads as follows:

§ 1063.12 Handler.

(d) Any person who operates a partially regulated distributing plant.

4. Section 1063.31 is revised to read as follows:

§ 1063.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request;

(b) Each handler specified in § 1063.12 (d) who operates a partially regulated distributing plant shall report as required in § 1063.30, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; and

(c) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

5. Section 1063.41 is revised to read as follows:

§ 1063.41 Classes of utilization.

Subject to the conditions set forth in § 1063.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As classified pursuant to paragraph (b) (2) and (4) of this section; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of to wholesale bakeries, candy manufacturers, soup companies, or for livestock feed;

(3) Contained in inventory of fluid milk products on hand at the end of the month;

(4) Skim milk dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping;

(5) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(6) In shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 1063.14) and from other order plants and unregulated supply plants to be allocated pursuant to § 1063.46(a) (7) and the corresponding step of § 1063.46(b), but not in excess of two percent of such receipts of skim milk and butterfat, respectively; and

(7) In shrinkage assigned pursuant to § 1063.42(b) (2).

6. In § 1063.42, paragraph (b) is revised to read as follows:

§ 1063.42 Shrinkage.

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in (1) receipts of producer milk and from other order plants and unregulated supply plants to be allocated pursuant to § 1063.46(a) (7) and the corresponding step of § 1063.46(b); and (2) in other source milk in fluid form, exclusive of that specified in subparagraph (1) of this paragraph.

7. Section 1063.44 is revised to read as follows:

§ 1063.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1063.46(a) (7) and the corresponding step of § 1063.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1063.46(a) (3) and the corresponding step of § 1063.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1063.46(a) (7) and the corresponding step of § 1063.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 300 miles by the shortest highway distance

as determined by the market administrator, from the City Hall of Rock Island, Illinois;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 300 miles, by the shortest highway distance as determined by the market administrator, from the City Hall of Rock Island, Illinois, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1063.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization (except in ungraded fluid milk products disposed of for manufacturing uses) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the trans-

feree order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

8. Section 1063.46 is revised to read as follows:

**§ 1063.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1063.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1063.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products;

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds

subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1063.44(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

9. Section 1063.52 is revised to read as follows:

**§ 1063.52 Location adjustments to handlers.**

(a) For milk received from producers at a pool plant located 70 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the City Hall in Rock Island, Illinois, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1063.50(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers, and the volume assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

10. Section 1063.62 is revised to read as follows:

**§ 1063.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1063.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1063.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1063.10(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1063.10(b), and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

**§ 1063.63 [Revocation]**

11. Section 1063.63 is revoked.

12. Section 1063.70 is revised to read as follows:



**§ 1063.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1063.46(c), by the applicable class prices (adjusted pursuant to §§ 1063.51 and 1063.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1063.46(a)(9) and the corresponding step of § 1063.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1063.46(a)(5) and the corresponding step of § 1063.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1063.46(a)(3) and the corresponding step of § 1063.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1063.46(a)(7)(i) and the corresponding step of § 1063.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1063.46(a)(7)(iii) and the corresponding step of § 1063.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1063.52(b).

13. In § 1063.71, paragraph (b) is revised to read as follows:

**§ 1063.71 Computation of aggregate value used to determine uniform price.**

(b) Add or subtract for each one-tenth percent that the average butterfat content of the milk specified in § 1063.72(a) is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the hundredweight of such milk;

14. Section 1063.72 is revised to read as follows:

**§ 1063.72 Computation of weighted average price.**

For each month the market administrator shall compute a weighted average price for milk of 3.5 percent butterfat content f.o.b. Rock Island, Illinois, as follows:

(a) Divide the aggregate value computed pursuant to § 1063.71 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 values are computed pursuant to § 1063.70 (e) and (f); and

(b) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (a) of this section. The result shall be known as the "weighted average price", and except for the months of March through June, shall be the uniform price for milk received from producers.

15. In § 1063.73, paragraph (d) is revised to read as follows:

**§ 1063.73 Computation of uniform price for base milk and excess milk.**

(d) From the aggregate value of all milk obtained in § 1063.71 subtract the following:

(1) An amount computed by multiplying the hundredweight of milk specified in § 1063.72(a)(2) by the weighted average price; and

(2) The value of excess milk pursuant to paragraph (c) of this section; and

16. Section 1063.82 is revised to read as follows:

**§ 1063.82 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk pursuant to § 1063.72 and the uniform price for base milk pursuant to § 1063.73 for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1063.52; and

(b) For purposes of computations pursuant to §§ 1063.84 and 1063.85 the weighted average price shall be adjusted at the rates set forth in § 1063.52 applicable at the location of the nonpool plant from which the milk was received.

17. Section 1063.84 is revised to read as follows:

**§ 1063.84 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1063.70 for such handler; and

(b) The sum of  
(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1063.80; and

(2) The value at the weighted average price applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1063.70 (e) and (f).

18. Section 1063.85 is revised to read as follows:

**§ 1063.85 Payment out of the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1063.84(b) exceeds the amount computed pursuant to § 1063.84(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1063.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

19. Section 1063.87 is revised to read as follows:

**§ 1063.87 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1063.46(a)(3) and (7)(i) and the corresponding steps of § 1063.46 (b) and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1064—MILK IN GREATER KANSAS CITY MARKETING AREA**

1. Section 1064.7 is revised to read as follows:

**§ 1064.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who (a) produces milk under a dairy farm permit or rating issued by a duly constituted health authority for the production of milk to be used for consumption as Grade A milk in the marketing area which: (1) Is received at a pool plant, or (2) is caused to be diverted during any of the months of January through August or to the extent of not more than 16 days' production during the months of September through December, from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association, or (b) produces milk acceptable to agencies of the U.S. Government for fluid consumption in its institutions or bases which is received at a pool plant supplying Class I milk to such an institution or base in the marketing area. Milk diverted pursuant to paragraph (a)(2) of this section shall be considered as having

been received at the plant from which it is diverted.

2. In § 1064.11, paragraph (b) is revised and paragraph (f) is added to read as follows:

**§ 1064.11 Handler.**

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(f) A producer-handler, or any person who operates an other order plant.

3. Section 1064.19 is revised to read as follows:

**§ 1064.19 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool approved plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool approved plant from which milk is shipped during the month to a pool plant qualified pursuant to § 1064.10 and which is not an other order plant nor a producer-handler plant.

4. In § 1064.30, the introductory text is revised and paragraph (h) is added as follows:

**§ 1064.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(h) Each handler specified in § 1064.11 (b) who operates a partially regulated distributing plant shall report as required in § 1064.31 and in paragraphs (a) through (g) of this section, with receipts of Grade A milk from dairy farmers reported in lieu of receipts from producers, except that quantities of base milk and excess milk need not be reported.

4a. In § 1064.31, the reference "§ 1064.61(a)" is changed to "§ 1064.61(b)."

5. In § 1064.32, paragraph (a) is revised and paragraph (d) is added as follows:

**§ 1064.32 Other reports.**

(a) Each producer-handler and each handler making payments pursuant to § 1064.61(b) shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(d) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of the product shipped.

6. In § 1064.41(b), subparagraphs (6) (ii) and (7) are revised to read as follows:

**§ 1064.41 Classes of utilization.**

(b) \* \* \*  
(6) \* \* \*  
(ii) 1.5 percent of skim milk and butterfat, respectively, received in bulk tank lots from other pool plants, and from other order plants and unregulated supply plants to be allocated pursuant to § 1064.46(a)(7) and the corresponding step of § 1064.46(b); plus

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1064.42(b)(2).

7. In § 1064.42, paragraph (b) is revised to read as follows:

**§ 1064.42 Shrinkage.**

(b) Prorate the resulting amounts between (1) the receipts of skim milk and butterfat in the net quantity of milk from producers, from cooperative associations pursuant to § 1064.11 (c) and (d) and in bulk tanks from pool plants of other handlers, and from other order plants and unregulated supply plants to be allocated pursuant to § 1064.46(a)(7) and the corresponding step of § 1064.46(b); and (2) skim milk and butterfat in other source milk exclusive of that other source milk specified in subparagraph (1) of this paragraph.

8. Section 1064.44 is revised to read as follows:

**§ 1064.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization mutually indicated in writing to the market administrator by the operators of both plants on or before the 7th day after the end of the delivery period within which such transfer occurred or by the handler pursuant to § 1064.11 (c) and (d) and the plant operator; otherwise as Class I milk, if transferred in bulk to the pool plant of another handler subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1064.46(a)(7) and the corresponding step of § 1064.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1064.46(a)(3), and the corresponding step of § 1064.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1064.46(a)(7) and the corresponding step of § 1064.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of bulk milk, skim milk or cream to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 200 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Kansas City, Missouri; Manhattan, Kansas; or Emporia, Kansas, except that cream so transferred may be classified as Class II, subject to such verification of alternate utilization as the market administrator

(c) As Class I milk, if transferred or diverted in the form of bulk milk, skim milk or cream to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 200 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Kansas City, Missouri; Manhattan, Kansas; or Emporia, Kansas, except that cream so transferred may be classified as Class II, subject to such verification of alternate utilization as the market administrator may make, if notice is given to the market administrator prior to shipment and each container is labeled or tagged with a certificate by the transferor that such cream is sold as Grade C cream for manufacturing only;

(d) As Class I milk, if transferred or diverted in the form of bulk milk, skim milk or cream to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 200 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Kansas City, Missouri; Manhattan, Kansas; or Emporia, Kansas, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the

assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1064.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(v) If any skim milk or butterfat is transferred to a second nonpool plant under this paragraph the same conditions of audit, classification, and allocation shall apply.

(e) In the class to which allocated under the terms of the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. With respect to bulk transfers, if the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with the respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

9. Section 1064.46 is revised to read as follows:

**§ 1064.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1064.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1064.41 (b) (6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants, from cooperative handlers pursuant to § 1064.11(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order

plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1064.44 (a);

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

10. Section 1064.53 is revised to read as follows:

**§ 1064.53 Location adjustments to handlers.**

(a) For milk received from producers at a pool plant located more than 50 miles by shortest highway distance as measured by the market administrator, from the nearest of the City Halls in Kansas City, Missouri, and Lawrence, Topeka, Manhattan, Council Grove and Emporia, Kansas, which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which location adjustments are applicable, the price computed pursuant to § 1064.51(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 60 miles from such City Hall, by 16 cents if such plant is located 60 to 80 miles from such City Hall, and by an additional one cent for each 10 miles or fraction thereof that such distance exceeds 80 miles.

(b) For purposes of calculating such adjustment, bulk transfers between pool plants and fluid milk products received in bulk from handler pool other order plants shall be assigned to the Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1064.11 (c) and (d), and the pounds assigned as Class I to receipts from market pool other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

11. Section 1064.61 is revised to read as follows:

**§ 1064.61** Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant except a handler exempt pursuant to § 1064.60 shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1064.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1064.70 at the partially regulated distributing plant and at any other nonpool plant(s) which serves as a supply plant(s) for the partially regulated distributing plant and meets requirements equivalent to § 1064.10(b) by shipment to the partially regulated distributing plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by the operator of the partially regulated distributing plant for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1064.10(b), by shipment to the partially regulated distributing plant and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

12. Section 1064.70 is revised to read as follows:

**§ 1064.70** Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1064.46(c), by the applicable class prices (adjusted pursuant to §§ 1064.52 and 1064.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1064.46(a)(9) and the corresponding step of § 1064.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.46(a)(5) and the corresponding step of § 1064.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1064.46(a)(3) and the corresponding step of § 1064.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1064.46(a)(7)(i) and the corresponding step of § 1064.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1064.46(a)(7)(iii) and the corresponding step of § 1064.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1064.53.

13. Section 1064.71 is revised to read as follows:

**§ 1064.71** Computation of uniform prices.

For each month the market administrator shall compute the "uniform price" per hundredweight of milk received from producers (or "weighted average price") as follows:

(a) Combine into one total the values computed pursuant to § 1064.70 for all handlers who filed the reports prescribed by § 1064.30 for the month and who made the payments pursuant to §§ 1064.80 and 1064.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1064.81;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant

to § 1064.82 and multiplying the result by the total hundredweight of such milk;

(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 values are computed pursuant to § 1064.70 (e) and (f);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and for the months August through January shall be the "uniform price" for milk received from producers;

14. Section 1064.72 is revised to read as follows:

**§ 1064.72** Computation of uniform prices for base milk and excess milk.

For each of the delivery periods of February through July the market administrator shall compute uniform prices per hundredweight for base milk and for excess milk as follows:

(a) Subtract from the amount resulting from the computations made pursuant to paragraphs (a) through (d) of § 1064.71 an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of § 1064.71 by the weighted average price;

(b) Compute the total value of excess milk by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 3.5 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 3.5 percent butterfat content, and adding together the resulting amounts;

(c) Divide the total value of excess milk obtained in paragraph (b) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat received from producers;

(d) Subtract the value of excess milk obtained in paragraph (b) of this section from the aggregate value of milk obtained in paragraph (a) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(e) Divide the amount obtained in paragraph (d) of this section by the total hundredweight of base milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content received from producers at pool plants, f.o.b. marketing area.

15. Section 1064.81 is revised to read as follows:

**§ 1064.81 Location differentials to producers and on nonpool milk.**

(a) The uniform price and the base price for producer milk received at a pool plant or diverted from a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1064.53; and

(b) For purposes of computations pursuant to §§ 1064.84 and 1064.85 the weighted average price shall be adjusted at the rates set forth in § 1064.53 applicable at the location of the nonpool plant from which the milk was received.

16. Section 1064.83 is revised to read as follows:

**§ 1064.83 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section.

(a) Payments made by handlers pursuant to § 1064.61 (a) and (b), and §§ 1064.84 and 1064.86.

(b) Payments due handlers pursuant to §§ 1064.85 and 1064.88: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1064.61, 1064.84, 1064.86, 1064.87 and 1064.88.

17. Section 1064.84 is revised to read as follows:

**§ 1064.84 Payments to the producer-settlement fund.**

On or before the 14th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1064.70 for such handler; and

(b) The sum of:

(1) The amount required to be paid producers by such handler pursuant to § 1064.80 before deductions authorized by the producer or for marketing services pursuant to § 1064.87; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1064.70 (e) and (f).

18. Section 1064.85 is revised to read as follows:

**§ 1064.85 Payments out of the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1064.84(b) exceeds the amount computed pursuant to § 1064.84(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such

payment and shall complete such payments as soon as the necessary funds are available.

19. Section 1064.88 is revised to read as follows:

**§ 1064.88 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month two cents per hundredweight, or such lesser amount as the Secretary may prescribe, of (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1064.46(a) (3) and (7) (i) and the corresponding steps of § 1064.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant except by a handler exempt pursuant to § 1064.60 on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1067—MILK IN OZARKS MARKETING AREA**

1. Section 1067.7 is revised to read as follows:

**§ 1067.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk under a dairy farm permit issued by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area or acceptable to agencies of the United States Government for fluid consumption in its institutions or bases in the marketing area which is (a) delivered from the farm to a pool plant, or (b) caused to be diverted from the farm to a nonpool plant (providing such nonpool plant is not subject to the classification and pricing provisions of another order issued pursuant to the Act) during any of the months of February through July, or to the extent of not more than 10 days' production during any of the months of August through January for the account of a handler. Milk so diverted shall be deemed to have been received at the pool plant from which diverted.

2. In § 1067.8, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

**§ 1067.8 Handler.**

(a) Any person in his capacity as the operator of (1) a pool plant, or (2) a partially regulated distributing plant;

(d) A producer-handler, or any person who operates an other order plant.

3. Section 1067.12 is revised to read as follows:

**§ 1067.12 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The fol-

lowing categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant nor a producer-handler plant.

4. A new § 1067.17, is added to read as follows:

**§ 1067.17 Fluid milk product.**

"Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (fresh or sour) and mixtures of fresh milk, skim milk and cream (except aerated cream, ice cream mix or eggnog).

5. In § 1067.30, the introductory paragraph is revised to read as follows:

**§ 1067.30 Reports of receipts and utilization.**

On or before the 6th day after the end of each month each handler who operates a pool plant and each cooperative association in its capacity as a handler pursuant to § 1067.8 (b) and (c) shall report to the market administrator in the detail and on forms prescribed by the market administrator the following information. Each handler specified in § 1067.8(a)(2) who operates a partially regulated distributing plant shall report the same information except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk:

**§ 1067.31 [Amendment]**

6. In § 1067.31 the reference in the introductory paragraph to "§ 1067.61(a)" is changed to "1067.61(b)".

7. Section 1067.32 is revised to read as follows:

**§ 1067.32 Other reports.**

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location

of such plant, the identity of the plant operator, and the identity of product shipped.

8. Section 1067.41 is revised to read as follows:

**§ 1067.41 Classes of utilization.**

Subject to the conditions set forth in §§ 1067.43 and 1067.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2) and (3) of this section. Fluid milk products which have been fortified by the addition of nonfat solids shall be Class I only up to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content.

(2) Not specifically accounted for as Class II.

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified as Class I in paragraph (a) of this section;

(2) In inventory of products designated as Class I milk in § 1067.41(a) on hand at the end of the month;

(3) Contained in that portion of fluid milk products which have been fortified by the addition of nonfat solids and which are not classified as Class I milk pursuant to paragraph (a) of this section;

(4) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1067.42(b) (1), but not to exceed the following: Two percent of milk received directly from producers (except producer milk diverted in producer cans to a nonpool plant pursuant to § 1067.7) and from a cooperative association which is the handler for such milk pursuant to § 1067.8(b), plus one and one-half percent of milk received in bulk tank lots from pool plants of other handlers, from other order plants and unregulated supply plants, which is to be allocated pursuant to § 1067.46(a) (7) and the corresponding step of § 1067.46(b), less one and one-half percent of milk disposed of in bulk tank lots to pool plants of other handlers; and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1067.42(b) (2).

9. In § 1067.42, paragraph (b) is revised to read as follows:

**§ 1067.42 Shrinkage.**

(b) Prorate the resulting amounts between (1) the receipts of skim milk and butterfat in the net quantity of milk from producers, from cooperative associations pursuant to § 1067.8(b), in bulk tanks from pool plants of other handlers, from other order plants and unregulated supply plants allocated pursuant to § 1067.46(a) (7) and the corresponding step of § 1067.46(b); and (2) the receipts of skim milk and butterfat in other source milk except that specified in subparagraph (1) of this paragraph.

10. Section 1067.44 is revised to read as follows:

**§ 1067.44 Transfers.**

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1067.46(a) (7) and the corresponding step of § 1067.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1067.46(a) (3), and the corresponding step of § 1067.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1067.46(a) (7) and the corresponding step of (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 100 miles by the shortest highway distance as determined by the market administrator, from the nearest point in the marketing area except that cream so transferred may be classified as Class II if:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims Class II in his report submitted to the market administrator pursuant to § 1067.30 on or before the 6th day after the end of the month within which such transaction occurred;

(3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 100 miles, by the shortest highway distance as determined by the market administrator from the nearest point in the marketing area unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1067.30 for the month within which such transaction occurred;

(2) The operator for such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

11. Section 1067.46 is revised to read as follows:

**§ 1067.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1067.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1067.41(b)(4);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1067.44(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1067.53 is revised to read as follows:

**§ 1067.53 Location adjustments to handlers.**

(a) For milk received from producers at a pool plant located outside the marketing area, and for other source milk for which a location adjustment credit is applicable, the Class I price for such milk shall be 1.5 cents less per hundred-weight for each 10 miles or fraction thereof that such plant is from the nearest point in the marketing area than the Class I price. For the purpose of this section, the distance which a plant is from the nearest place in the marketing area shall be the shortest highway distance as determined by the market administrator.

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1067.8(b), and the volume assigned as Class I to receipts from market pool other order plants (and unregulated supply plants), such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

13. Section 1067.61 is revised to read as follows:

**§ 1067.61 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraphs (a) or (b) of this

section, unless the handler elects, at the time of reporting pursuant to § 1067.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed at such plant pursuant to § 1067.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1067.11(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computations, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (1) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets the requirements equivalent to § 1067.11(b), and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area:

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

14. Section 1067.70 is revised to read as follows:

**§ 1067.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1067.46(c), by the applicable class prices (adjusted pursuant to §§ 1067.52 and 1067.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1067.46(a)(9) and the corresponding

step of § 1067.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1067.46(a) (5) and the corresponding step of § 1067.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1067.46(a) (3) and the corresponding step of § 1067.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1067.46(a) (7) (i) and the corresponding step of § 1067.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1067.46(a) (7) (iii) and the corresponding steps of § 1067.46 (b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1067.53(b).

15. Section 1067.71 is revised to read as follows:

**§ 1067.71 Computation of uniform prices.**

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1067.70 for all handlers who filed the reports prescribed by § 1067.30 for the month and who made the payments pursuant to §§ 1067.80 and 1067.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1067.82 (a) and (c) and subtract an amount equal to the total payments to be made pursuant to § 1067.82(b);

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1067.81 and multiplying the result by the total hundredweight of such milk;

(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;
- (2) The total hundredweight for which values are computed pursuant to § 1067.70 (e) and (f);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e) (2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June and July an amount equal to ten cents per hundredweight on the total amount of producer milk included in these computations to be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of October, November and December, one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

16. Section 1067.82 is revised by changing the heading thereof and adding a new paragraph (c) to read as follows:

**§ 1067.82 Location differentials to producers and on nonpool milk.**

(c) For purposes of computations pursuant to §§ 1067.84 and 1067.85 the weighted average price shall be adjusted at the rates set forth in paragraph (a) of this section applicable at the location of the nonpool plant from which the milk was received.

17. Section 1067.84 is revised to read as follows:

**§ 1067.84 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided*, That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue. Such payment shall be considered to be overdue on the 15th day after the end of the month to which the obligation applies:

(a) The total of the net pool obligation computed pursuant to § 1067.70 for such handler; and

(b) The sum of

- (1) The value of such handler's producer milk at the applicable uniform price specified in § 1067.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1067.70 (e) and (f).

18. Section 1067.85 is revised to read as follows:

**§ 1067.85 Payments out of the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1067.84(b) exceeds the amount computed pursuant to § 1067.84(a): *Provided*, That if the unobligated balance in the producer-settlement fund is insufficient to make full payment to all handlers entitled to payment pursuant to this paragraph, the market administrator shall reduce such payments at a uniform rate and shall complete such payments as soon as the appropriate funds are available: *And provided further*, That the market administrator may deduct from payments due handlers pursuant to this section any unpaid balance due the market administrator from such handler pursuant to §§ 1067.84, 1067.86, 1067.87(a) and 1067.88.

19. Section 1067.88 is revised to read as follows:

**§ 1067.88 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1067.46(a) (3) and (7) (i) and the corresponding steps of § 1067.46 (b), and (c) packaged Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA**

1. Section 1068.10 is revised to read as follows:

**§ 1068.10 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regu-



lation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products eligible for sale as Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant.

2. Section 1068.11 is revised to read as follows:

#### § 1068.11 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(a) Received from the farm at a pool plant; or

(b) Moved in accordance with the conditions of § 1068.44(c)(2) but allotted to a pool plant by listing on the payroll report of such plant pursuant to § 1068.32, which milk shall be deemed to be received at such pool plant: *Provided*, That any such person whose milk is received from the farm at a pool plant during any portion of the period July through October, inclusive, but subsequently in such four-month period is received at a nonpool plant (except as provided above in this paragraph) shall not regain status as a producer prior to the next July 1.

3. Section 1068.13 is revised to read as follows:

#### § 1068.13 Handler.

(a) \* \* \*

(b) Any person in his capacity as the operator of a partially regulated distributing plant. This definition shall not apply to a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities;

(c) Any person in his capacity as the operator of an other order plant; or

(d) A producer-handler.

4. Section 1068.16 is revised to read as follows:

#### § 1068.16 Other source milk.

"Other source milk" means all skim milk and butterfat:

(a) Other than that contained in producer milk or received from a pool plant(s); and

(b) Contained in products other than fluid milk products from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month.

5. A new § 1068.19 is added to read as follows:

#### § 1068.19 Fluid milk product.

"Fluid milk product" means milk, skim milk, concentrated milk, buttermilk, flavored milk, flavored milk drinks (except any such item disposed of as animal feed and sterilized milk, cream or milk drinks in metal containers hermetically sealed), cream (sweet or sour, including "Smetana" and similar sour cream products and mixtures of cream and milk or skim milk containing less butterfat than the legal standard for cream).

6. Section 1068.30 is revised to read as follows:

#### § 1068.30 Reports of receipts and utilization.

(b) Each handler specified in § 1068.13 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk.

7. Section 1068.31 is revised to read as follows:

#### § 1068.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

8. Section 1068.41 (a) and (b) is revised to read as follows:

#### § 1068.41 Classes of utilization.

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in fluid form (except as provided in paragraph (b) (3) and (4) of this section) as milk, skim milk (including reconstituted skim milk), concentrated milk, buttermilk, flavored milk, flavored milk drinks (except any such item disposed of as animal feed and sterilized milk, cream or milk drinks in metal containers hermetically sealed), cream (sweet or sour), including "Smetana" and similar sour cream products and mixtures of cream and milk or skim milk containing less butterfat than the legal standard for cream;

(2) In shrinkage of:

(i) Producer milk;

(ii) Plus receipts of fluid milk products subject to allocation pursuant to § 1068.46(a)(4) and the corresponding step of § 1068.46(b); and

(iii) Less fluid milk products transferred to other order plants; and

(3) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce a milk product other than those specified in paragraph (a) of this section;

(2) Skim milk and butterfat stored in a public cold storage warehouse as frozen cream;

(3) Skim milk and butterfat contained in any item included under paragraph (a) of this section disposed of as animal feed;

(4) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of the fluid milk products prior to such addition; and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1068.42(b)(2).

9. Section 1068.42 is revised to read as follows:

#### § 1068.42 Shrinkage.

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1068.41(a)(2); and

(2) Other source milk exclusive of that specified in § 1068.41(a)(2).

10. Section 1068.44 is revised to read as follows:

#### § 1068.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1068.46(a)(4) and the corresponding step of § 1068.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1068.46(a)(2), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1068.46(a)(4) and the corresponding step of § 1068.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if moved to a nonpool plant by a cooperative association directly from the farm of the producer and the nonpool plant is one from which milk is disposed of in fluid form on routes;

(d) As Class I milk, if transferred to a nonpool plant that is neither an other order plant nor a producer-handler plant and is located more than 100 miles from the Minnesota Transfer Vliaduct over University Avenue in St. Paul, Minnesota;

(e) As Class I milk, if transferred in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is not more than 100 miles from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minnesota, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1068.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(f) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators

of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

11. Section 1068.46 is revised to read as follows:

**§ 1068.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1068.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(2) Subtract in the order specified below from the pounds of skim milk remaining with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(3) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) the sum of the pounds of skim milk in producer milk, receipts from a cooperative association as a handler pursuant to the proviso of § 1068.13(a), receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operators of both plants;

(4) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (3)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (3)(ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order

plants that were not subtracted pursuant to subparagraph (3)(ii) of this paragraph;

(5) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1068.44(a);

(6) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1068.55 is revised to read as follows:

**§ 1068.55 Location differential to handlers.**

The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant shall be reduced by the amount indicated below for the distance that such plant is located from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minnesota. Such deduction shall be based on the airline mileage as computed by the market administrator.

*Location of Plant and Amount of Deduction*

Miles:	Cents
0 to 15.....	0
15 to 20.....	8
20 to 30.....	10
30 to 40.....	12
40 to 50.....	14
50 to 60.....	15
60 to 70.....	16
70 or over.....	17

<sup>1</sup> Plus an additional 1 cent for each 10 miles or fraction thereof in excess of 80 miles.

**§ 1068.63 [Redesignation]**

13. Section 1068.63 is revoked and § 1068.64 is redesignated § 1068.63.

14. A new § 1068.64 is added to read as follows:

**§ 1068.64 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1068.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1068.70 at such plant and at any other nonpool plant(s) which serves as a supply

plant(s) for such plant and meets requirements equivalent to § 1068.9(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such plant(s) to a pool plant or an other order plant shall be valued at the Class II price if allocated to such class at the pool plant or other order plant and at the uniform price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant and meets requirements equivalent to § 1068.9(b) and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:  
(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1068.71 at the same location or at the Class II price, whichever is higher.

15. Section 1068.70 is revised to read as follows:

**§ 1068.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class (including any such milk caused to be delivered to such handler from the farms of producers for the account of a cooperative association), as computed pursuant to § 1068.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1068.46(a)(6) and the corresponding step of § 1068.46(b) by the applicable class prices;

(c) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1068.46(a)(2) and the corresponding step of § 1068.46(b);

(d) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1068.46(a)(4)(i) and the corresponding step of § 1068.46(b); and

(e) Add the value at the applicable class prices of the skim milk and butterfat subtracted from each class pursuant to § 1068.46(a)(4)(iii) and the corresponding step of § 1068.46(b).

16. Section 1068.71 is revised to read as follows:

**§ 1068.71 Computation of uniform price.**

For each month the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1068.70 for all handlers who filed reports pursuant to § 1068.30 for the month and who made the payments pursuant to §§ 1068.80 and 1068.84 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1068.81 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 1068.82;

(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 values are computed pursuant to § 1068.70(d) and (e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

17. Section 1068.72(a) is revised to read as follows:

**§ 1068.72 Computation of uniform price for base milk.**

(a) Make the same computations required pursuant to § 1068.71(a) through (d) for producer milk only;

18. Section 1068.82 is revised to read as follows:

**§ 1068.82 Location differentials to producers and on nonpool milk.**

(a) In making payments pursuant to § 1068.80(b) and (c) for milk received at a pool plant, each handler shall deduct from the applicable price payable to such producers the amount indicated below for the distance that such pool plant is located from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minnesota. Such deduction shall be based on the airline mileage as computed by the market administrator:

**Location of Plant and Amount of Deduction**

Miles:	Cents
0 to 15.....	0
15 to 20.....	8
20 to 30.....	10
30 to 40.....	12
40 to 50.....	14
50 to 60.....	15
60 to 70.....	16
70 or over.....	17

<sup>1</sup> Plus an additional 1 cent for each 10 miles or fraction thereof in excess of 80 miles.

(b) For the purpose of computations pursuant to §§ 1068.84 and 1068.85, the uniform price shall be adjusted at the rates set forth in paragraph (a) of this section applicable at the location of the nonpool plant from which the milk was received.

**§ 1068.83 [Amendment]**

19. In § 1068.83 the reference "§§ 1068.84 and 1068.86" is deleted and "§§ 1068.64, 1068.84 and 1068.86" is substituted therefor.

20. Section 1068.84 is revised to read as follows:

**§ 1068.84 Payments to the producer-settlement fund.**

On or before the 16th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided*, That payment made by a cooperative association as a handler pursuant to this paragraph with respect to milk transferred to another handler from the pool plant of such cooperative association or caused to be delivered to such handler from the farms of producers for the account of such cooperative association shall not relieve the transferee handler of any obligation on any such milk which is due the cooperative association, or otherwise due pursuant to §§ 1068.80 through 1068.92, inclusive:

(a) The net pool obligation computed pursuant to § 1068.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1068.80; and

(2) The value at the uniform price pursuant to § 1068.71 applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1068.70 (d) and (e).

21. Section 1068.85 is revised to read as follows:

**§ 1068.85 Payments out of the producer-settlement fund.**

On or before the 17th day after the end of each month, the market administrator shall pay, subject to the proviso of § 1068.83, to each handler the amount, if any, by which the amount computed pursuant to § 1068.84(b) exceeds the amount computed pursuant to § 1068.84(a).

22. Section 1068.90 is revised to read as follows:

**§ 1068.90 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1068.46(a) (2) and (4) (i) and the corresponding steps of § 1068.46(b), and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1069—MILK IN THE DULUTH-SUPERIOR MARKETING AREA**

1. Section 1069.8 is revised to read as follows:

**§ 1069.8 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

2. Section 1069.10 is revised to read as follows:

**§ 1069.10 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of, or acceptable to, a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) caused to be diverted from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative

association. Milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it was diverted.

3. A new § 1069.16 is added to read as follows:

**§ 1069.16 Distributing plant.**

"Distributing plant" means a plant in which any Grade A fluid milk product is pasteurized or packaged and disposed of during the month in the marketing area on routes.

4. A new § 1069.17 is added to read as follows:

**§ 1069.17 Supply plant.**

"Supply plant" means a plant from which Grade A milk is shipped during the month to a pool plant.

5. The introductory text of § 1069.30 is revised to read as follows:

**§ 1069.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month each handler pursuant to § 1069.9 (a), (c) and (d) shall report to the market administrator, with respect to each plant, in the detail and on forms prescribed by the market administrator as follows:

6. Section 1069.32 is revised to read as follows:

**§ 1069.32 Other reports.**

(a) Each handler operating a pool plant, each producer-handler and each handler pursuant to § 1069.9(b) shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

7. Section 1069.41 is revised to read as follows:

**§ 1069.41 Classes of utilization.**

Subject to conditions set forth in § 1069.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including the skim milk equivalent of concentrated products) and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraph (b) (2) and (3) of this section; and

(2) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk and butterfat disposed of as livestock feed or skim milk dumped, subject to prior notification to and inspection (at his discretion) by the market administrator;

(3) Skim milk represented by the non-fat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of fluid milk products prior to such addition;

(4) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month;

(5) Skim milk and butterfat, respectively (except milk diverted to a nonpool plant pursuant to § 1069.10), in shrinkage, but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 1.5 percent of bulk fluid milk products received from a handler pursuant to § 1069.9(d);

(iii) Plus 1.5 percent of bulk fluid milk products received from pools plants;

(iv) Plus 1.5 percent of fluid milk products subject to allocation pursuant to § 1069.46(a) (7) and the corresponding step of § 1069.46(b); and

(v) Less 1.5 percent of bulk fluid milk products transferred to pool plants and to other order plants;

(6) Skim milk and butterfat in shrinkage allocated pursuant to § 1069.42 (b) (2).

8. Section 1069.42(b) (1) and (2) is revised to read as follows:

**§ 1069.42 Shrinkage.**

(b) \* \* \*

(1) In the net quantity of producer milk and other fluid milk products specified in § 1069.41(b) (5); and

(2) In other source milk exclusive of that specified in § 1069.41(b) (5).

9. Section 1069.44 is revised to read as follows:

**§ 1069.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1069.46(a) (7) and the corresponding step in § 1069.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1069.46(a) (3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1069.46(a) (7) and the corresponding step of § 1069.46 (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred or diverted from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles, by the shortest highway distance as determined by the market administrator, from the Courthouse in Duluth, Minnesota;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the Courthouse in Duluth, Minnesota, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1069.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

10. Section 1069.46 is revised to read as follows:

**§ 1069.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1069.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1069.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) the sum of the pounds of skim milk in producer milk, receipts from a handler pursuant to § 1069.9(d), receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operators of both plants;

(5) Subtract from the pounds of skim milk remaining in each class, in series

beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1069.44(a);

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1069.53 is revised to read as follows:

**§ 1069.53 Location differentials to handlers.**

(a) For producer milk and other source milk (for which a location adjustment is applicable) which is received at a plant located more than 55 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse at Duluth, Minnesota, or Ashland, Wisconsin, whichever is closer, and which is classified as Class I milk, the prices computed pursuant to § 1069.51(a) shall be reduced by 8 cents if such plant is located more than 55 miles but not more than 65 miles from such courthouse and by an additional 1.3 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles; and

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants and handler pool other order plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to

receipts from market pool other order plants and unregulated supply plants. Such assignment shall be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

12. Section 1069.62 is revised to read as follows:

**§ 1069.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraphs (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1069.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1069.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1069.7(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such plant(s) to a pool plant or an other order plant shall be valued at the Class II price if allocated to such class at the pool plant or other order plant and at the uniform price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1069.7(b) and (ii) and payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to

§ 1069.71 at the same location or at the Class II price, whichever is higher.

13. Section 1069.70 is revised to read as follows:

**§ 1069.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1069.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1069.46(a)(9) and the corresponding step of § 1069.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1069.46(a)(3) and the corresponding step of § 1069.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1069.46(a)(3) and the corresponding step of § 1069.46(b);

(e) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1069.46(a)(7)(i) and the corresponding step of § 1069.46(b); and

(f) Add the value at the applicable class prices of the skim milk and butterfat subtracted from each class pursuant to § 1069.46(a)(7)(iii) and the corresponding step of § 1069.46(b).

14. Section 1069.71 is revised to read as follows:

**§ 1069.71 Computation of uniform prices.**

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1069.70 for all handlers who filed the reports prescribed by § 1069.30 for the month and who made the payments pursuant to §§ 1069.80 and 1069.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1069.81;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1069.82 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half 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 values are computed pursuant to § 1069.70 (e) and (f); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price".

15. Section 1069.81 is revised to read as follows:

**§ 1069.81 Location differential to producers and on nonpool milk.**

(a) For milk which is received at a pool plant located more than 55 miles but not more than 65 miles by shortest highway distance, as determined by the market administrator, from the Courthouse at Duluth, Minnesota, or at Ashland, Wisconsin, whichever is closer, there should be deducted 8 cents per hundredweight and an additional 1.3 cents should be deducted for each 10 miles or fraction thereof that such distance exceeds 65 miles; and

(b) For purposes of computations pursuant to §§ 1069.84 and 1069.85 the uniform price shall be adjusted at the rates set forth in § 1069.53 applicable at the location of the nonpool plant from which the milk was received.

16. Section 1069.84 is revised to read as follows:

**§ 1069.84 Payments to the producer-settlement fund.**

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section;

(a) The net pool obligation computed pursuant to § 1069.70 for such handler;

(b) The sum of:  
(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1069.70 (e) and (f).

17. Section 1069.85 is revised to read as follows:

**§ 1069.85 Payments out of the producer-settlement fund.**

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1069.84(b) exceeds the amount computed pursuant to § 1069.84(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments required by this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

18. Section 1069.88 is revised to read as follows:

**§ 1069.88 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1069.46(a) (3) and (7)(i) and the corresponding steps of § 1069.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

19. Section 1069.9 is revised to read as follows:

**§ 1069.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant.

(b) Any person who operates a partially regulated distributing plant.

(c) Any cooperative association with respect to the milk of producers which is diverted from a pool plant to a nonpool plant for the account of such cooperative association.

(d) Any cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association. Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.

(e) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

(f) A producer-handler.

20. The introductory text of § 1069.31 is revised to read as follows:

**§ 1069.31 Payroll reports.**

On or before the 25th day of each month, each handler shall submit to the market administrator his producer payroll for receipts during the preceding month which shall show:

**PART 1070—MILK IN CEDAR RAPIDS-IOWA CITY MARKETING AREA**

1. Section 1070.7 is revised to read as follows:

**§ 1070.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant.

2. Section 1070.11 is revised to read as follows:

**§ 1070.11 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant," which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

3. In § 1070.12, paragraph (a) is revised and new paragraphs (c) and (d) are added to read as follows:

**§ 1070.12 Handler.**

(a) Any person in his capacity as the operator of one or more pool plants;

(c) Any person who operates a partially regulated distributing plant; and

(d) A producer-handler, or any person who operates an other order plant.

4. In § 1070.31, new paragraphs (c) (d) are added and read as follows:

**§ 1070.31 Other reports.**

(c) Each handler specified in § 1070.12 (c) who operates a partially regulated distributing plant shall report as required in § 1070.30 and, if payment is made pursuant to § 1070.62(a) as required in paragraph (b) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk.

(d) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

5. Section 1070.41 is revised to read as follows:

**§ 1070.41 Classes of utilization.**

Subject to the conditions set forth in § 1070.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in inventory of fluid milk products on hand at the end of the month;

(3) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) of this section;

(4) In shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 1070.14) and from other order plants and unregulated supply plants to be allocated pursuant to § 1070.46(a) (7) and the corresponding step of § 1070.46(b), but not in excess of two percent of such receipts of skim milk and butterfat, respectively; and

(5) In shrinkage assigned pursuant to § 1070.42(b) (2).

6. In § 1070.42, paragraph (b) is revised to read as follows:

**§ 1070.42 Shrinkage.**

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in (1) receipts of producer milk and from other order plants and unregulated supply plants to be allocated pursuant to § 1070.46(a) (7) and the corresponding step of § 1070.46(b); and (2) in other source milk in fluid form, exclusive of that specified in subparagraph (1) of this paragraph.

7. Section 1070.44 is revised to read as follows:

**§ 1070.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1070.46(a) (7) and the corresponding step of § 1070.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1070.46(a) (3) and the corresponding step of § 1070.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1070.46(a) (7) and the corresponding step of § 1070.46 (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 300 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Cedar Rapids and Iowa City, Iowa;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 300 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Cedar Rapids and Iowa City, Iowa, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1070.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization (except in ungraded cream disposed of for manufacturing uses) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant for all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

3. Section 1070.46 is revised to read as follows:

§ 1070.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1070.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1070.41(b) (7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant;

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1070.44(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

9. Section 1070.52 is revised to read as follows:

§ 1070.52 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located 50 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the nearer of the City Halls in Cedar Rapids and Iowa City, Iowa, and disposed of as Class I milk or



assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1070.50(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers, and the volume assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

10. Section 1070.62 is revised to read as follows:

**§ 1070.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraphs (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1070.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1070.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1070.10(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1070.10(b), and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

**§ 1070.63 [Revocation]**

11. Section 1070.63 is revoked.  
12. Section 1070.70 is revised to read as follows:

**§ 1070.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1070.46(c), by the applicable class prices (adjusted pursuant to §§ 1070.51 and 1070.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1070.46(a)(9) and the corresponding step of § 1070.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1070.46(a)(5) and the corresponding step of § 1070.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1070.46(a)(3) and the corresponding step of § 1070.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1070.46(a)(7)(i) and the corresponding step of § 1070.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1070.46(a)(7)(iii) and the corresponding step of § 1070.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1070.52(b).

13. Section 1070.71 is revised to read as follows:

**§ 1070.71 Computation of uniform price.**

For each month the market administrator shall compute a uniform price for

producer milk of 3.5 percent butterfat content f.o.b. pool plants located within 50 miles of the City Hall of Cedar Rapids or Iowa City, Iowa, as follows:

(a) Combine into one total the values computed pursuant to § 1070.70 for all handlers who filed the reports prescribed by § 1070.30 for the month and who made the payments pursuant to § 1070.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1070.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1070.81 and multiplying the result by the total hundredweight of such milk;

(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 values are computed pursuant to § 1070.70 (e) and (f); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

14. Section 1070.82 is revised to read as follows:

**§ 1070.82 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1070.52; and

(b) For purposes of computations pursuant to §§ 1070.84 and 1070.85 the uniform price shall be adjusted at the rates set forth in § 1070.52 applicable at the location of the nonpool plant from which the milk was received.

15. Section 1070.84 is revised to read as follows:

**§ 1070.84 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1070.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform price specified in § 1070.80; and

(2) The value at the uniform price applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which

values are computed pursuant to § 1070.70 (e) and (f).

16. Section 1070.85 is revised to read as follows:

**§ 1070.85 Payments out of the producer-settlement fund.**

On or before the 12th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1070.84(b) exceeds the amount computed pursuant to § 1070.84(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1070.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

17. Section 1070.87 is revised to read as follows:

**§ 1070.87 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1070.46(a) (3) and (7) (1) and the corresponding steps of § 1070.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1078—MILK IN NORTH CENTRAL IOWA MARKETING AREA**

1. Section 1078.7 is revised to read as follows:

**§ 1078.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted from a pool plant to a nonpool plant for the account of the operator of the pool plant (1) any day during the months of April through June, and (2) on not more than one-half the days on which milk was delivered from a farm during any of the months of July through March.

2. In § 1078.10, paragraph (b) is revised to read as follows:

**§ 1078.10 Pool plant.**

(b) A supply plant for the month in which shipments of milk, skim milk or

cream are made to distributing plants which are pool plants on not less than 10 days in any of the months of September, October, and November and on not less than 5 days in other months: *Provided*, That a supply plant which was not a pool plant for each of the immediately preceding months of September, October, and November shall not be a pool plant for any month during which none of the milk, skim milk or cream from such plant would be allocated to Class I milk pursuant to the procedure specified in § 1078.46(a) (3) and the corresponding step of § 1078.46(b) at a distributing plant which is a pool plant.

3. Section 1078.11 is revised to read as follows:

**§ 1078.11 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

4. In § 1078.31, a new paragraph (c) is added and reads as follows:

**§ 1078.31 Other reports.**

(c) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

5. Section 1078.41 is revised to read as follows:

**§ 1078.41 Classes of utilization.**

Subject to the conditions set forth in § 1078.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product, except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(2) Not accounted for as Class II milk. (b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in inventory of fluid milk products on hand at the end of the month;

(3) Which is excepted from Class I pursuant to paragraph (a) (1) of this section;

(4) In shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 1078.7) and receipts of fluid milk products in bulk from other order plants and unregulated supply plants to be allocated pursuant to § 1078.46(a) (7) and the corresponding step of § 1078.46(b); and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1078.42(b) (2).

6. In § 1078.42, paragraph (b) is revised to read as follows:

**§ 1078.42 Shrinkage.**

(b) Prorate the resulting amounts between the skim milk and butterfat contained in: (1) Receipts of producer milk and from other order plants and unregulated supply plants to be allocated pursuant to § 1078.46(a) (7) and the corresponding step of § 1078.46(b); and (2) in other source milk in fluid form, exclusive of that specified in subparagraph (1) of this paragraph.

7. Section 1078.44 is revised to read as follows:

**§ 1078.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1078.46(a) (7) and the corresponding step of § 1078.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1078.46(a) (3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1078.46(a) (7) and the corresponding step of § 1078.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other

source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles by the shortest highway distance as determined by the market administrator, from the nearest of the City Halls of Waterloo, Mason City, Fort Dodge and Marshalltown, Iowa;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearest of the City Halls of Waterloo, Mason City, Fort Dodge and Marshalltown, Iowa, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1078.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to a handler pool other order plant, and pro rata to the average utilization, as estimated by the market administrator of the transferee order, of the milk included in the computation of the weighted average or uniform price for such month under the transferee order, if transferred to a market pool other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

8. Section 1078.46 is revised to read as follows:

**§ 1078.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1078.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1078.41(b)(4);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products;

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classi-

fied as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1078.44(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

9. In § 1078.70, paragraph (e) is revised to read as follows:

**§ 1078.70 Computation of the net obligation of each handler.**

(e) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1078.46(a)(4) and the corresponding step of § 1078.46(b), or the hundredweight of skim milk and butterfat remaining in Class II after computations pursuant to § 1078.46(a)(5) and the corresponding step of § 1078.46(b), for the preceding month, whichever is less;

10. Section 1078.85 is revised to read as follows:

**§ 1078.85 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundred-weight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1078.46 (a) (3) and (7) (i) and the corresponding steps of § 1078.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1079—MILK IN DES MOINES, IOWA, MARKETING AREA**

1. Section 1079.7 is revised to read as follows:

**§ 1079.7 Approved dairy farmer.**

"Approved dairy farmer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received at an approved plant.

2. Section 1079.11 is revised to read as follows:

**§ 1079.11 Approved plant.**

"Approved plant" means a pool plant or a partially regulated distributing plant which is not a pool plant.

3. Section 1079.13 is revised to read as follows:

**§ 1079.13 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

4. Section 1079.31 is revised to read as follows:

**§ 1079.31 Other reports.**

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler or one making payment pursuant to § 1079.62 (b), shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his pool plants (or partially regulated distributing plants) his producer payroll for such month which shall show for each producer:

(i) His name and address;

(ii) The total pounds of milk received from such producer, including for the months of March through June the total pounds of base and excess milk;

(iii) The number of days if less than the entire month, for which milk was received from such producer;

(iv) The average butterfat content of such milk; and

(v) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions;

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted; and

(3) Such other information with respect to the utilization of butterfat and skim milk as the market administrator may prescribe.

(c) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

5. Section 1079.41 is revised to read as follows:

**§ 1079.41 Classes of utilization.**

Subject to the conditions set forth in § 1079.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As classified pursuant to paragraph (b) (2) of this section; and

(2) Not accounted for as Class II milk:

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk disposed of for live-stock feed or dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping;

(3) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month;

(4) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(5) Skim milk and butterfat in shrinkage allocated to receipts of approved milk, and from other order plants and unregulated supply plants to be allocated pursuant to § 1079.46 (a) (7) and (8) and the corresponding steps of § 1079.46 (b), but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively; and

(6) Skim milk and butterfat, respectively, in shrinkage assigned pursuant to § 1079.42 (b) (2).

6. In § 1079.42, paragraph (b) is revised to read as follows:

**§ 1079.42 Shrinkage.**

(b) Prorate the resulting amounts between the skim milk and butterfat contained in (1) receipts of approved milk, and from other order plants and unregulated supply plants to be allocated pursuant to § 1079.46 (a) (7) and (8) and the corresponding steps of § 1079.46 (b); and (2) in other source milk in fluid form, exclusive of that specified in subparagraph (1) of this paragraph.

7. Section 1079.44 is revised to read as follows:

**§ 1079.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1079.46 (a) (8) and the corresponding step of § 1079.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1079.46 (a) (3) and the corresponding step of § 1079.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1079.46 (a) (7) and (8) and the corresponding steps of § 1079.46 (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from an approved plant to a producer-handler;

(c) As Class I milk, if transferred or diverted from an approved plant to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles by the shortest highway distance as determined by the market administrator, from the nearest of the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, Iowa;

(d) As Class I milk, if transferred or diverted from an approved plant in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 150 miles by the shortest highway distance, as determined by the market administrator, from the nearest of the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1079.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization (except in ungraded cream disposed of for manufacturing uses) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class

I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators, such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

8. Section 1079.46 is revised to read as follows:

§ 1079.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1079.45, the market administrator shall determine the classification of approved milk received at each approved plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1079.41(b) (5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract successively from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A milk;

(iii) Receipts of fluid milk products from producer-handlers or producer-handler plants under any Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of

shrinkage classified as Class I) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler.

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph; and

(ii) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph.

Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utiliza-

tion of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1079.44;

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

9. Section 1079.52 is revised to read as follows:

**§ 1079.52 Location differentials to handlers.**

(a) For approved milk received at an approved plant located 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator, from the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, Iowa; and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1079.50 shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant of approved milk, and the volume assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

10. Section 1079.62 is revised to read as follows:

**§ 1079.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 15th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this

section, unless the handler elects, at the time of reporting pursuant to § 1079.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1079.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets requirements equivalent to § 1079.12(b) by shipment to such plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1079.12(b), and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

**§ 1079.63 [Revocation]**

11. Section 1079.63 is revoked.

12. Section 1079.70 is revised to read as follows:

**§ 1079.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1079.46(c), by the applicable class prices (adjusted pursuant to §§ 1079.51 and 1079.52);

(b) Add the amount obtained from multiplying the pounds of overage de-

ducted from each class pursuant to § 1079.46(a)(10) and the corresponding step of § 1079.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.46(a)(5) and the corresponding step of § 1079.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1079.46(a)(3) and the corresponding step of § 1079.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1079.46(a)(8)(ii) and the corresponding step of § 1079.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1079.46(a)(7) and the corresponding step of § 1079.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1079.52(b).

13. In § 1079.71, paragraph (b) is revised to read as follows:

**§ 1079.71 Computation of aggregate value used to determine uniform price.**

(b) Add or subtract for each one-tenth percent that the average butterfat content of the milk specified in § 1079.72 (a) is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the hundredweight of such milk;

14. Section 1079.72 is revised to read as follows:

**§ 1079.72 Computation of weighted average price.**

For each month the market administrator shall compute a weighted average price for milk of 3.5 percent butterfat content, f.o.b. pool plants located within the base zone, as follows:

(a) Divide the aggregate value computed pursuant to § 1079.71 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 values are computed pursuant to § 1079.70 (e) and (f); and

(b) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (a) of this section. The result shall be known as the "weighted average price", and, except for the months of March through

June, shall be the uniform price for milk received from producers.

15. In § 1079.73, paragraph (d) is revised to read as follows:

**§ 1079.73 Computation of uniform price for base milk and excess milk.**

(d) From the aggregate value of all milk obtained in § 1079.71 subtract the following:

(1) An amount computed by multiplying the hundredweight of milk specified in § 1079.72(a) (2) by the weighted average price; and

(2) The value of excess milk pursuant to paragraph (c) of this section; and

**§ 1079.80 [Amendment]**

16. In § 1079.80 the reference in the introductory text of paragraph (a) "paragraph (c)" is changed to "paragraph (b)", paragraph (b) is revoked, and paragraphs (c) and (d) are redesignated (b) and (c).

17. In § 1079.82, a new paragraph (c) is added and reads as follows:

**§ 1079.82 Location differentials to producers and on nonpool milk.**

(c) For purposes of computations pursuant to §§ 1079.84 and 1079.85 the weighted average price shall be adjusted at the rates set forth in § 1079.52 applicable at the location of the nonpool plant from which the milk was received.

**§ 1079.83 [Amendment]**

18. In § 1079.83 the reference "1079.80," is revoked.

19. Section 1079.84 is revised to read as follows:

**§ 1079.84 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1079.70 for such handler; and

(b) The sum of

(1) The amount of the obligation pursuant to § 1079.80 of such handler for producer milk received during the month; and

(2) The value at the weighted average price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1079.70 (e) and (f).

20. Section 1079.85 is revised to read as follows:

**§ 1079.85 Payments out of the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1079.84(b) exceeds the amount computed pursuant to § 1079.84(a): *Provided*, That if the bal-

ance 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 such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1079.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

21. Section 1079.88 is revised to read as follows:

**§ 1079.88 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1079.46(a) (3) and (8) (ii) and the corresponding steps of § 1079.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1094—MILK IN NEW ORLEANS, LA., MARKETING AREA**

1. Section 1094.11 is revised to read as follows:

**§ 1094.11 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a pool plant during the month, but which is neither an other

order plant nor a producer-handler plant.

2. In § 1094.14, the introductory text preceding paragraph (a) is revised to read as follows:

**§ 1094.14 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part), who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant or by a cooperative association pursuant to § 1094.12(d) or is diverted pursuant to paragraphs (a) through (c) of this section: *Provided*, That milk so diverted shall be deemed to have been received at the location of the pool plant from which diverted:

3. In § 1094.12, paragraph (b) is revised and a new paragraph (e) is added to read as follows:

**§ 1094.12 Handler.**

(b) Any person who operates a partially regulated distributing plant; or

(e) A producer-handler, or any person who operates an other order plant.

4. Section 1094.30 is revised to read as follows:

**§ 1094.30 Reports of receipts and utilization.**

On or before the 5th day of each month each handler who operates a pool plant(s), and any cooperative association with respect to milk for which it is a handler pursuant to § 1094.12 (c) or (d) shall report for the preceding month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Producer milk, and for each month of the base-operating period, the total quantities of base and excess milk received;

(2) Milk received from a cooperative association in its capacity as a handler pursuant to § 1094.12(d);

(3) Fluid milk products received from other pool plants;

(4) Other source milk;

(5) Inventories of fluid milk products on hand at the beginning and end of the month;

(6) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including a separate statement with respect to Class I milk disposed of inside the marketing area; and

(7) Such other information with respect to sources and utilization of skim milk and butterfat as the market administrator may prescribe.

(b) Each handler specified in § 1094.12(b) who operates a partially regulated distributing plant shall report in the same manner as required in paragraph (a) of this section with respect to all receipts and utilization, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk, and base and excess milk.

5. In § 1094.31, the section heading and paragraph (c) are revised. The section heading and paragraph (c) now read as follows:

§ 1094.31 Payroll reports.

(c) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1094.62(b) shall report to the market administrator on or before the 20th day after the end of the month his payments to dairy farmers qualified to be producers if such plant were a pool plant, showing for each such dairy farmer:

- (1) The pounds of milk received;
- (2) The average butterfat content thereof; and
- (3) The date and net amount of payment to such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each.

6. Section 1094.32 is revised to read as follows:

§ 1094.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler who operates an other order plant with disposition of fluid milk products on routes in the marketing area shall report such disposition to the market administrator on or before the 7th day after the end of each month.

(c) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such other order plant, the identity of its plant operator, and the identity of product shipped.

7. In § 1094.41(b), subparagraph (6) is revised and a new subparagraph (7) is added to read as follows:

§ 1094.41 Classes of utilization.

(b) \* \* \*

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1094.42(b) (1), but not to exceed the following: Two percent of milk received directly from producers plus 1½ percent of milk received in bulk from pool plants of other handlers, from other order plants and unregulated supply plants to be allocated pursuant to § 1094.46(a) (7) and the corresponding step of § 1094.46(b), plus 1½ percent of milk received from a cooperative association which is the handler for such milk pursuant to § 1094.12(d), less 1½ percent of milk disposed of in bulk to plants of other handlers and to nonpool plants; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1094.42(b) (2).

§§ 1094.43 and 1094.44 [Redesignations]

8. Sections 1094.42 and 1094.43 are renumbered and redesignated as §§ 1094.43

and 1094.44, respectively. A new § 1094.42 is added to read as follows:

§ 1094.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the skim milk and butterfat contained in (1) receipts from producers, from pool plants of other handlers, from other order plants and unregulated supply plants to be allocated pursuant to § 1094.46(a) (7) and the corresponding step of § 1094.46(b), from a cooperative association which is the handler for such milk pursuant to § 1094.12(d) and (2) other source milk in fluid form, exclusive of that specified in subparagraph (1) of this paragraph.

9. Section 1094.44 (formerly § 1094.43) is revised to read as follows:

§ 1094.44 Transfers.

Skim milk and butterfat transferred or diverted during the month as milk, skim milk or cream in bulk from a pool plant (including milk transferred by a cooperative association in its capacity as a handler pursuant to § 1094.12(d)) to:

(a) The pool plant of another handler, except as provided in paragraph (f) of this section, shall be classified at the utilization indicated by the operators of both plants, otherwise as Class I milk, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1094.46(a) (7) and the corresponding step of § 1094.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1094.46(a) (3) and the corresponding step of § 1094.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1094.46(a) (7) and the corresponding step of § 1094.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) A plant operated by a producer-handler shall be Class I milk;

(c) A nonpool plant (except pursuant to paragraph (d) of this section) located more than 350 miles by the shortest highway distance from the City Hall in New Orleans, Louisiana, as determined by the market administrator, shall be Class I milk unless claimed and transferred in the form of cream in bulk to such a nonpool plant which does not dispose of milk or cream for consumption in fluid form;

(d) An other order plant, shall be classified in the class to which allocated under the terms of such other order. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment; and

(e) A nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 350 miles, by the shortest highway distance as determined by the market administrator, from the City Hall in New Orleans shall be classified as Class I, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1094.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator and are adequate for verification of the Class II usage claimed; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order;

(iii) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the skim milk and butterfat in transfers of milk, skim milk, and cream in bulk from the nonpool plant to pool plants, classified as if it were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II utilization indicated: *Provided*, That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat being classified as Class I from pool plants of two or more handlers, such classification shall be shared



pro rata between such handlers unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification;

(iv) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the Class II utilization remaining in the nonpool plant after deducting from such Class II utilization the sum of the skim milk and butterfat, respectively, in fluid milk products in opening inventory, in receipts of nonfluid milk products which are used to produce any product other than a fluid milk product in the plant during the month, and in non-Grade A receipts at the nonpool plant: *Provided*, That fluid cream transfers from such nonpool plant to a second nonpool plant meeting the conditions of subparagraph (2) of this paragraph and which is neither an other order plant nor a producer-handler plant shall be classified as Class II milk in an amount not in excess of Class II (pursuant to § 1094.41 (b)(1)) processed in such second nonpool plant plus the bulk fluid cream shipped therefrom to other nonpool plants which are neither other order plants nor producer-handler plants and which do not dispose of milk or cream in consumer packages for consumption in fluid form; and

(v) Any remaining skim milk and butterfat in the quantities transferred to the nonpool plant shall be Class I.

(f) Unless a different utilization is claimed by both handlers pursuant to paragraph (a) of this section, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association in its capacity as the operator of a pool plant or a handler pursuant to § 1094.12(d) shall be classified pro rata to the respective amounts thereof remaining in each class for such months at the pool plant of the receiving handler after the computations pursuant to § 1094.46(a)(8) and the corresponding step of § 1094.46(b).

10. Section 1094.46 is revised to read as follows:

§ 1094.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1094.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1094.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning

with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I milk) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, receipts from a cooperative association in its capacity as a handler pursuant to § 1094.12(d) and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers and from a cooperative association as a handler pursuant to § 1094.12(d), according to the classification assigned pursuant to § 1094.44(a); and

(9) Subtract pro rata from the pounds of skim milk remaining in each class, the pounds of skim milk to be classified pursuant to § 1094.44(b); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§§ 1094.47, 1094.48 [Revocations]

10a. Sections 1094.47 and 1094.48 are revoked.

11. Section 1094.53 is revised to read as follows:

§ 1094.53 Location differentials to handlers.

(a) For that milk which is received from producers or from a cooperative association as a handler pursuant to § 1094.12(d) at a pool plant more than 50 miles by shortest toll-free highway distance, as determined by the market administrator, from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, Louisiana, and utilized as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1094.51(a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Rate per  
hundredweight  
(cents)

Zones measured from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, Louisiana (miles):	
More than 50 but not more than 60...	13.5
Each additional 10 miles or fraction thereof.....	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products in bulk from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers, and the pounds assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) For (1) milk received from producers at a pool plant more than 50 miles, by the shortest toll-free highway distance, as determined by the market administrator, from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse, Houma, Louisiana, and classified as Class II and (2) for milk received from producers at a pool plant 50 miles or less from the basing points in New Orleans for Houma and classified as Class II pursuant to § 1094.41(b)(3), (4), and (6) shall be reduced by 13.5 cents.

(d) The market administrator shall determine and publicly announce the zone location of each plant of each han-

dler according to the shortest toll-free highway distance between such plant and the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

§ 1094.54 [Revocation]

12. Section 1094.54 is revoked.

13. Section 1094.62 is revised to read as follows:

§ 1094.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraphs (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1094.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1094.70 at the partially regulated distributing plant and at any other nonpool plant(s) which serves as a supply plant(s) for the partially regulated distributing plant and meets requirements equivalent to § 1094.10(b) by shipments to the partially regulated distributing plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by the operator of a partially regulated distributing plant for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1094.10(b) by shipments to the partially regulated distributing plant and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

14. In § 1094.63, the introductory text just preceding paragraph (a) is revised to read as follows:

§ 1094.63 Plants subject to other Federal orders.

The handler operating a plant specified in paragraphs (a) or (b) of this section shall be exempt from all provisions of this part except §§ 1094.32, 1094.34 and 1094.35.

15. Section 1094.70 is revised to read as follows:

§ 1094.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1094.48, by the applicable class prices (adjusted pursuant to §§ 1094.52 and 1094.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1094.46(a)(10) and the corresponding step of § 1094.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.46(a)(5) and the corresponding step of § 1094.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1094.46(a)(3) and the corresponding step of § 1094.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1094.46(a)(7)(i) and the corresponding step of § 1094.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1094.46(a)(7)(iii), and the corresponding step of § 1094.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1094.53.

16. Section 1094.71 is revised to read as follows:

§ 1094.71 Computation of the 3.5 percent value of all milk.

For each month, the market administrator shall compute the 3.5 percent value of all milk specified in § 1094.72, as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 1094.70 except those of handlers who failed to make payments required pursuant to § 1094.80 through § 1094.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1094.76;

(c) Subtract, if the average butterfat content of the milk specified in § 1094.72 is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1094.75 and multiplying the result by the total hundredweight of such milk;

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

17. Section 1094.72 is revised to read as follows:

§ 1094.72 Weighted average and uniform price.

For each month the market administrator shall make the following computation:

(a) Divide the amount computed pursuant to paragraphs (a) through (d) in § 1094.71 by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included pursuant to § 1094.71(a); and

(2) The total hundredweight for which values are computed pursuant to § 1094.70 (e) and (f);

(b) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in the months of August through January;

18. Section 1094.73 is revised to read as follows:

§ 1094.73 Uniform excess milk price.

For each of the months of February through July the market administrator shall compute the uniform price for excess milk containing 3.5 percent butterfat as follows:

(a) Multiply the hundredweight of excess milk not in excess of the total quantity of Class II milk represented by the values included in § 1094.71(a) by the price for 3.5 percent Class II milk pursuant to § 1094.51(b);

(b) Multiply the hundredweight of any excess milk not included in the computation described in paragraph (a) of this section by the price for 3.5 percent Class I utilization pursuant to § 1094.51(a); and

(c) Combine into one total the values computed pursuant to paragraphs (a) and (b) of this section, divide by the hundredweight of excess milk and round to the nearest cent.

19. Section 1094.74 is revised to read as follows:

**§ 1094.74 Uniform base milk price.**

For each of the months of February through July the market administrator shall compute the uniform price for base milk containing 3.5 percent butterfat received from producers as follows:

(a) Multiply the total pounds of excess milk by the excess price for the month;

(b) Subtract the total value arrived at in paragraph (a) of this section from the total 3.5 percent value of all producer milk arrived at in § 1094.71;

(c) From the amount resulting from the computations pursuant to paragraph (b) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in § 1094.72(a) (2) by the weighted average price

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk for handlers included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price per hundredweight for base milk of 3.5 percent butterfat received from producers.

20. Section 1094.76 is revised to read as follows:

**§ 1094.76 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk and the uniform price for base milk received at a pool plant shall be reduced according to the location of the pool plant, each at the rates set forth in § 1094.53(a);

(b) The uniform price for excess milk received from producers at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1094.53(c); and

(c) For purposes of computations pursuant to §§ 1094.82 and 1094.83 the weighted average price shall be adjusted at the rates set forth in § 1094.53(a) applicable at the location of the nonpool plant from which the milk was received.

21. In § 1094.77, the introductory text preceding paragraph (a), and paragraph (c) are revised to read as follows:

**§ 1094.77 Notification of handlers.**

On or before the 11th day after the end of each month, the market administrator shall mail to each handler receiving milk from producers, who submitted the report(s) prescribed in § 1094.30, at his last known address a statement showing:

(c) The weighted average and uniform price(s) computed pursuant to §§ 1094.72 through 1094.74 and the butterfat differential computed pursuant to § 1094.75;

22. Section 1094.82 is revised to read as follows:

**§ 1094.82 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1094.70 for such handlers; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices computed pursuant to §§ 1094.72 and 1094.73 adjusted by the producer butterfat and location differentials; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1094.70 (e) and (f).

23. Section 1094.83 is revised to read as follows:

**§ 1094.83 Payments out of the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1094.82(b) exceeds the amount computed pursuant to § 1094.82(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 such payments as soon as the appropriate funds are available.

24. Section 1094.86 is revised to read as follows:

**§ 1094.86 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may, from time-to-time, prescribe, to be announced by the market administrator on or before the 11th day after the end of such month, with respect to all skim milk and butterfat received by such handler in (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1094.46(a) (3) and (7) (i) and the corresponding steps of § 1094.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

25. Section 1094.90 is revised to read as follows:

**§ 1094.90 Base-operating period.**

The base-operating period shall be the months of February through July.

26. Section 1094.91 is revised to read as follows:

**§ 1094.91 Base-forming period.**

The base-forming period shall be the months of September through January immediately preceding the base-operating period.

**PART 1096—MILK IN NORTHERN LOUISIANA MARKETING AREA**

1. In § 1096.7 the introductory text is revised to read as follows:

**§ 1096.7 Producer.**

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act or any person with respect to milk produced by him which is subject to the pricing and payment provisions of another order issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant or by a cooperative association pursuant to § 1096.8(d), or is diverted to a nonpool plant other than the plant of a producer-handler during any month(s) of February through August or in accordance with the provisions of paragraph (a), (b), or (c) of this section during any month of September through January: *Provided*, That the milk so diverted shall be deemed to have been received at the location of the pool plant from which diverted: *Provided further*, That if a handler diverting milk pursuant to paragraph (b) or (c) of this section, diverts in excess of the limits prescribed all diversions by such handler during the month shall be pursuant to paragraph (a) of this section: *And provided further*, That if a handler diverting milk pursuant to paragraph (a) of this section, diverts milk of any dairy farmer in excess of the limits prescribed, such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant:

2. In § 1096.8, paragraph (b) is revised and new paragraphs (e) and (f) are added, to read as follows:

**§ 1096.8 Handler.**

(b) Any person who operates a partially regulated distributing plant;

(e) Any person in his capacity as the operator of a nonpool supply plant; and  
(f) A producer-handler, or any person who operates an other order plant.

3. In § 1096.8 the word "and" appearing after the semicolon in paragraph (c) of this section is deleted. Also, the period appearing at the end of the last sentence in paragraph (d) of this section is deleted and a semicolon followed by the word "and" is substituted therefor.

4. Section 1096.21 is added and reads as follows:

**§ 1096.21 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The fol-

lowing categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a pool plant during the month, but which is neither an other plant nor a producer-handler plant.

5. In § 1096.30, paragraphs (b) and (c) are revised to read as follows:

§ 1096.30 Reports of receipts and utilization.

(b) Each handler specified in § 1096.8 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; and

(c) Each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

6. In § 1096.31, the introductory text and paragraph (a) are revised to read as follows:

§ 1096.31 Payroll reports.

On or before the 20th day of each month each handler (other than a producer-handler) who is the operator of a pool plant or who is the operator of a partially regulated distributing plant and does not elect to make payment pursuant to § 1096.62(b) at the regular time for reporting pursuant to § 1096.30(b), for each of his plants, and each cooperative association, with respect to milk for which it is the handler pursuant to § 1096.8 (c) or (d), shall submit to the market administrator his producer payroll for deliveries of milk for the preceding month which shall show:

(a) The name and, if not previously reported, address of each producer (dairy farmers in the case of a partially regulated distributing plant pursuant to § 1096.62(a));

7. Section 1096.32 is revised to read as follows:

§ 1096.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

(c) Each handler, who causes milk to be diverted for his account directly from a producer's farm to a nonpool plant, shall prior to such diversion report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the name of the plant to which such milk is to be diverted.

8. In § 1096.41, paragraphs (b) (5) (i) and (iv) are revised to read as follows:

§ 1096.41 Classes of utilization.

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

(ii) 1.5 percent of bulk receipts of milk from other pool plants, from other order plants and unregulated supply plants to be allocated pursuant to § 1096.46(a) (7) and (8) and the corresponding steps of § 1096.46(b), and from cooperative associations in their capacity as handlers pursuant to § 1096.8(d) except that where the handler is purchasing milk from a cooperative association in its capacity as a handler pursuant to § 1096.8 (d) and files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of the butterfat tests of farm drawn samples and weights determined at the farm, the applicable percentage on such milk shall be 2.0 percent; less

\* \* \* \* \*

(iv) Shrinkage on other source milk determined pursuant to § 1096.42(b) (2);

9. Section 1096.42 is revised to read as follows:

§ 1096.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for such plant; and

(b) Prorate the resulting amounts between the skim milk and butterfat contained in (1) receipts from producers, from other pool plants, from cooperative associations pursuant to § 1096.8(d), and from other order plants and unregulated supply plants to be allocated pursuant to § 1096.46(a) (7) and (8) and the corresponding steps of § 1096.46(b), and (2) in other source milk in fluid form, exclusive of that specified in subparagraph (1) of this paragraph.

10. Section 1096.44 is revised to read as follows:

§ 1096.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to another pool plant subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1096.46(a) (8) and the corresponding step of § 1096.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1096.46(a) (3) and the corresponding step of § 1096.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1096.46(a) (7) and (8) and the corresponding steps of § 1096.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 300 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Halls of Minden or Monroe, Louisiana;

(d) Except as provided in paragraph (c) of this section, as Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1096.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and

butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) In the class to which allocated under the terms of such other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

11. Section 1096.46 is revised to read as follows:

**§ 1096.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1096.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1096.41(b)(5)(i) through (iii);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of shrinkage classified as Class I) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler.

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pur-

suant to subparagraph (4)(iii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph; and

(ii) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (4)(i) or (ii) of this paragraph.

Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from cooperative associations which are handlers pursuant to § 1096.8(d) according to the classification assigned pursuant to § 1096.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1096.53 is revised to read as follows:

**§ 1096.53 Location adjustments to handlers.**

(a) For milk received from producers at a pool plant located more than 50 but not more than 60 miles by shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Halls in Minden or Monroe, Louisiana, and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1096.51(a) shall be reduced by 12 cents, plus one cent for each 10 miles or frac-

tion thereof that such distance exceeds 60 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products in bulk from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1096.8(d), and the pounds assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

13. Section 1096.62 is revised to read as follows:

**§ 1096.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1096.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1096.70 at the partially regulated distributing plant and at any other nonpool plant(s) which serves as a supply plant(s) for the partially regulated distributing plant and meets requirements equivalent to § 1096.13(b) by shipments to the partially regulated distributing plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or an other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by the operator of a partially regulated distributing plant for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1096.13(b) by shipments to the partially regulated distributing plant and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of

as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

**§ 1096.63 [Revocation]**

14. Section 1096.63 is revoked.

15. Section 1096.70 is revised to read as follows:

**§ 1096.70 Computation of the net pool obligation of each pool handler.**

For each month the market administrator shall compute the obligation of each pool handler by making the computations provided in paragraphs (a) through (f) of this section for each of his pool plants and adding together the resulting totals:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1096.46(c), by the applicable class prices (adjusted pursuant to §§ 1096.52 and 1096.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1096.46(a)(10) and the corresponding step of § 1096.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.46(a)(5) and the corresponding step of § 1096.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1096.46(a)(3) and the corresponding step of § 1096.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1096.46(a)(8)(ii) and the corresponding step of § 1096.46(b); and

(f) Add the value of the skim milk and butterfat, respectively in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1096.46(a)(7) and the corresponding step of § 1096.46(b), at the applicable class prices adjusted for butterfat content and subject to loca-

tion adjustment credit pursuant to § 1096.53.

16. In § 1096.71, the introductory text of this section and paragraphs (b) and (c) are revised to read as follows:

**§ 1096.71 Computation of aggregate value used to determine uniform prices.**

For each month, the market administrator shall compute an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 3.5 percent butterfat content as follows:

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk included in paragraph (a) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such difference by the butterfat differential determined pursuant to § 1096.74 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made for location differentials pursuant to § 1096.75; and

17. Section 1096.72 is revised to read as follows:

**§ 1096.72 Computation of weighted average price and uniform price.**

For each month the market administrator shall compute the weighted average price per hundredweight for all milk of 3.5 percent butterfat content as follows:

(a) Divide the aggregate value computed pursuant to § 1096.71 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 values are computed pursuant to § 1096.70 (e) and (f);

(b) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price", and, except for the months of February through July, shall be the "uniform price" for producer milk.

18. In § 1096.73, paragraph (b)(1) is revised to read as follows:

**§ 1096.73 Computation of uniform prices for base milk and for excess milk.**

(b)(1) From the aggregate value of all milk obtained in § 1096.71 subtract the following:

(i) An amount computed by multiplying the hundredweight of milk specified in § 1096.72(a)(2) by the weighted average price; and

(ii) An amount computed by multiplying the hundredweight of excess milk determined pursuant to paragraph (a) of this section by the uniform price for excess milk;

19. Section 1096.75 is revised to read as follows:

**§ 1096.75 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk received at or diverted from a pool

plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1096.53; and

(b) For purposes of computations pursuant to §§ 1096.82 and 1096.83 the weighted average price shall be adjusted at the rates set forth in § 1096.53 applicable at the location of the nonpool plant from which the milk was received.

20. Section 1096.82 is revised to read as follows:

**§ 1096.82 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1096.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1096.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1096.70 (e) and (f).

21. Section 1096.83 is revised to read as follows:

**§ 1096.83 Payments out of the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1096.82(b) exceeds the amount computed pursuant to § 1096.82(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 such payments as soon as the appropriate funds are available.

22. Section 1096.86 is revised to read as follows:

**§ 1096.86 Expense of administration.**

As his pro rata share of the expense of administration of this part each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe as follows:

(a) Each pool handler with respect to (1) all receipts of producer milk including such handler's own production, and (2) other source milk allocated to Class I pursuant to § 1096.46(a)(3) and (8)(ii) and the corresponding steps of § 1096.46(b);

(b) Each cooperative association in its capacity as a handler on producer milk diverted to a nonpool plant for the account of such association or received by such association pursuant to § 1096.8(d); and

(c) Each handler operating a partially regulated distributing plant with respect to Class I milk disposed of from such plant on routes in the marketing area that exceeds Class I milk received during the month at the partially regulated distributing plant from pool plants and other order plants.

**PART 1097—MILK IN MEMPHIS, TENN., MARKETING AREA**

1. Section 1097.9 is revised to read as follows:

**§ 1097.9 Nonfluid milk plant.**

"Nonfluid milk plant" means any milk manufacturing, processing or bottling plant other than a fluid milk plant. The following categories of nonfluid milk plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, from which Class I milk in consumer-type packages or dispenser units is distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonfluid milk plant from which Grade A fluid milk products are moved during the month to a fluid milk plant and which is not an other order plant nor a producer-handler plant.

2. The introductory text of § 1097.11 is revised to read as follows:

**§ 1097.11 Producer.**

"Producer" means any person except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is:

3. In § 1097.30, paragraph (f) is added as follows:

**§ 1097.30 Reports of receipts and utilization.**

(f) Each handler who operates a partially regulated distributing plant shall report as required in this section except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk.

4. Section 1097.31 is revised by adding paragraph (c) as follows:

**§ 1097.31 Other reports.**

(c) On or before the 2d day of the following month, each handler operating a fluid milk plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of the product shipped.

5. In § 1097.41(b)(5), subdivision (ii) is revised to read as follows:

**§ 1097.41 Classes of utilization.**

(i) One and one-half percent of milk received in bulk tank lots from fluid milk plants of other handlers, from cooperative associations which are handlers pursuant to § 1097.10(c), and from other order plants and unregulated supply plants to be allocated pursuant to § 1097.46(a)(7) and the corresponding step of § 1097.46(b); less

6. In § 1097.42(b), subparagraph (1) is revised to read as follows:

**§ 1097.42 Shrinkage.**

(1) The pounds of skim milk and butterfat in other source milk received in the form of fluid milk products exclusive of that specified in § 1097.41(b)(5); and

7. Section 1097.44 is revised to read as follows:

**§ 1097.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a fluid milk plant to the fluid milk plant of another handler, except as provided in paragraph (e) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1097.46(a)(7) and the corresponding step of § 1097.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1097.46(a)(3) and the corresponding step of § 1097.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1097.46(a)(7) and the corresponding step of § 1097.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a fluid milk plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, located more than 225 miles by the shortest highway distance (open to commercial truck traffic) as determined by the market administrator, from the City Hall in Memphis, Tennessee;

(d) As Class I milk, if transferred or diverted in bulk to a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, located not more than 225 miles, by the shortest highway distance as determined by the market administrator, from the City Hall in Memphis, Tennessee, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1097.30 for the month within which such transaction occurred;

(2) The operator of such nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonfluid milk plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from fluid milk plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonfluid milk plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonfluid milk plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonfluid milk plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonfluid milk plant from all fluid milk plants and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As producer milk in the transferee plant, if transferred as bulk milk to the fluid milk plant of another handler by a cooperative in its capacity as a handler pursuant to § 1097.10(c); and

(f) In the class to which allocated under the terms of such other order, if transferred to a handler pool other order plant, and pro rata to the class uses reflected in the uniform or weighted average price computed for the month under such other order if transferred to a market pool other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. With respect to bulk transfers, if the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with the respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

8. Section 1097.46 is revised to read as follows:

**§ 1097.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1097.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1097.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant;

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying

the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from fluid milk plants of other handlers, from cooperative associations which are handlers pursuant to § 1097.10(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other fluid milk plants according to the classification assigned pursuant to § 1097.44(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

**§ 1097.53 [Amendment]**

9. In § 1097.53, the reference "§ 1097.46(a) (1), (2), (3), (4) and (5)," is changed to "§ 1097.46(a) (1) through (7)."

10. In § 1097.70, paragraph (e) is revised to read as follows:

**§ 1097.70 Net obligation of handlers.**

(e) Add an amount computed by multiplying by the difference between the appropriate Class II milk price for the preceding month and the appropriate Class I price for the current month the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1097.46(a)(5) and the corresponding step of § 1097.46(b);



11. Section 1097.97 is revised to read as follows:

**§ 1097.97 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) receipts of milk at fluid milk plants from producers (including that classified pursuant to § 1097.44(e) and such handler's own production), (b) other source milk allocated to Class I pursuant to § 1097.46(a) (3) and (7) (i) and the corresponding steps of § 1097.46(b), (c) receipts of milk for which a cooperative association is the handler pursuant to § 1097.10(c) in excess of that specified in paragraph (a) of this section, and (d) receipts of milk for which a cooperative association is a handler pursuant to § 1097.10(b).

**PART 1099—MILK IN PADUCAH, KENTUCKY, MARKETING AREA**

1. Section 1099.9 is revised to read as follows:

**§ 1099.9 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant," which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant," which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant nor a producer-handler plant.

2. Section 1099.10 is revised to read as follows:

**§ 1099.10 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) A producer-handler or any person who operates an other order plant;

(d) A cooperative association qualified pursuant to § 1099.87(b) with respect to

milk of producers diverted for the account of such association from a pool plant to a nonpool plant; or

(e) A cooperative association which chooses to report as a handler with respect to milk which is delivered to the pool plant(s) of another handler in a tank truck owned or operated by, or under contract to, such cooperative association for the account of such cooperative association. Milk handled under this paragraph (e) shall be allocated pro rata to each class in the same proportion as all producer milk in the receiving plant under the allocations pursuant to § 1099.45 (a) and (b).

Milk handled by a cooperative association pursuant to paragraph (d) of this section shall be deemed to have been received at a pool plant at a location identical with that from which diverted and that under paragraph (e) of this section at the pool plant to which delivered.

3. Section 1099.11 is revised to read as follows:

**§ 1099.11 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority, which milk is delivered from the farm to a pool plant or diverted from a pool plant to a nonpool plant for the account of a handler (unless such nonpool plant is subject to the classification and pricing provisions of another order issued pursuant to the Act): *Provided*, That for any of the delivery periods of September through January no milk so diverted shall be deemed to have been so received at a pool plant from a producer if production of more than 10 days is diverted to a nonpool plant during such delivery period.

3a. A new § 1099.16 is added to read as follows:

**§ 1099.16 Fluid milk product.**

"Fluid milk product" means milk, buttermilk, milk drinks (whether plain or flavored) and cream.

4. In § 1099.30, the introductory paragraph is revised to read as follows:

**§ 1099.30 Reports of receipts and utilization.**

On or before the 6th day after the end of each month, each handler shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator. Each handler specified in § 1099.10(b) who operates a partially regulated distributing plant shall report the same information except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk:

4a. Section 1099.31 is revised to read as follows:

**§ 1099.31 Reports of payments to producers.**

On or before the 20th day after the end of each month, each handler, except a producer-handler and a handler making payments pursuant to § 1099.62(b),

shall report to the market administrator, on forms approved by the market administrator, his producer payroll for such month which shall show for each producer (a) the total pounds of milk received from such producer with the average butterfat content thereof, (b) the net amount of the payment made to such producer together with the price, deductions, and charges involved, and (c) the amount and nature of any payments made pursuant to § 1099.84.

5. Section 1099.32 is revised to read as follows:

**§ 1099.32 Other reports.**

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request and shall permit the market administrator to verify such reports.

(b) On or before the 2d day of the following month, the handler operating each pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of product shipped.

6. Section 1099.41 is revised to read as follows:

**§ 1099.41 Classes of utilization.**

The classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2) and (3) of this section. Fluid milk products which have been fortified by the addition of milk solids shall be Class I only to the extent of the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content; and

(2) All milk, skim milk and cream not specifically accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce a product other than a fluid milk product;

(2) Contained in inventory of fluid milk products on hand at the end of the month;

(3) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a) (1) of this section; and

(4) In shrinkage of skim milk and butterfat, respectively, but not to exceed the following:

(i) Two percent of milk received from producers (except milk diverted pursuant to § 1099.11), from other order plants and unregulated supply plants which is to be allocated pursuant to § 1099.45(a) (7) and the corresponding step of § 1099.45(b); and

(ii) In shrinkage of skim milk and butterfat, in other source milk except that included in subdivision (i) of this subparagraph: *Provided*, That such shrinkage shall be assigned pro rata to the amounts used in the computations

pursuant to subdivision (i) of this subparagraph and this subdivision.

7. Section 1099.43 is revised to read as follows:

**§ 1099.43 Transfers.**

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1099.45 (a) (7) and (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1099.45(a) (3) and the corresponding step of § 1099.45 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1099.45(a) (7) and the corresponding step of § 1099.45 (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1099.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines consti-

tute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(d) In the class to which allocated on the basis of receipts and utilization reported for the month under the other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

8. Section 1099.45 is revised to read as follows:

**§ 1099.45 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1099.44, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1099.41(b) (4) (i);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants.

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers;

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers that were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to (a) (4) (ii) of this section; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to (a) (4) (ii) of this section;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1099.43(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

9. Section 1099.53 is revised to read as follows:

**§ 1099.53 Location adjustments to handlers.**

(a) For milk received from producers at a pool plant located more than 40 miles by shortest highway distance as

measured by the market administrator, from the nearest County Courthouse in any of the counties included in the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment credit is applicable, the price computed pursuant to § 1099.51(a) shall be reduced by 7.5 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 50 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of the receipts at such plant from producers and cooperative associations pursuant to § 1099.10(e), and the volume assigned as Class I to receipts from market pool other order plants (and unregulated supply plants) such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

10. Section 1099.62 is revised to read as follows:

**§ 1099.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1099.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1099.70 at such plant and at any other nonpool plant(s) which serves as a supply plant(s) for such plant and meets the requirements equivalent to § 1099.8(b) by shipment to such plant shall be determined as though such plant(s) were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets the requirements equivalent to § 1099.8(b), and (ii) any payments to the producer-settlement

fund of another order under which such plant is also a partially-regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the applicable uniform price or the Class II price, whichever is the higher.

11. Section 1099.70 is revised to read as follows:

**§ 1099.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1099.46, by the applicable class prices (adjusted pursuant to §§ 1099.52 and 1099.53);

(b) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.45(a)(5) and the corresponding step of § 1099.45(b);

(c) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1099.45(a)(9) and the corresponding step of § 1099.45(b) by the applicable class prices;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to the skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1099.45(a)(3) and the corresponding step of § 1099.45(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1099.45(a)(7)(i) and the corresponding step of § 1099.45(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1099.45(a)(7)(iii), and the corresponding steps of § 1099.45(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1099.53 (b).

12. Section 1099.71 is revised to read as follows:

**§ 1099.71 Computation of uniform prices.**

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1099.70 for all handlers who filed the reports prescribed by § 1099.30 for the month and who made the payments pursuant to §§ 1099.80 and 1099.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1099.86;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1099.85 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to 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 values are computed pursuant to § 1099.70 (e) and (f);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

13. Section 1099.82 is revised to read as follows:

**§ 1099.82 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The sum of the net pool obligation computed pursuant to § 1099.70 for such handler;

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1099.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1099.70 (e) and (f).

14. Section 1099.83 is revised to read as follows:

**§ 1099.83 Payments out of the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1099.82(b) ex-

ceeds the amount computed pursuant to § 1099.82(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 such payments as soon as the appropriate funds are available.

15. Section 1099.86 is revised to read as follows:

**§ 1099.86 Location differentials to producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which it is diverted at the rates set forth in § 1099.53; and

(b) For purposes of computations pursuant to §§ 1099.82 and 1099.83 the uniform price shall be adjusted at the rates set forth in § 1099.53 applicable at the location of the nonpool plant from which the milk was received.

16. Section 1099.88 is revised to read as follows:

**§ 1099.88 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1099.45(a) (3) and (7) (1) and the corresponding steps of § 1099.45(b), and (c) packaged Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

**PART 1102—MILK IN FORT SMITH, ARK., MARKETING AREA**

1. Section 1102.7 is revised to read as follows:

**§ 1102.7 Approved plant.**

"Approved plant" means any milk plant, except the plant of a producer-handler or a plant exempt pursuant to § 1102.61, approved by any health authority having jurisdiction in the marketing area from which fluid milk products are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores).

2. Section 1102.8 is revised to read as follows:

**§ 1102.8 Unapproved plant.**

"Unapproved plant" means any milk receiving, manufacturing or processing plant other than an approved plant. The following categories of unapproved plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means an unapproved plant which is not an other order plant nor a producer-handler plant and from which fluid milk products eligible for distribution in the marketing area for fluid consumption are moved during the month to an approved plant.

3. In § 1102.9 paragraph (a) is revised to read as follows:

**§ 1102.9 Handler.**

(a) Any person in his capacity as the operator of a milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores);

4. In § 1102.10, the text preceding the proviso is revised to read as follows:

**§ 1102.10 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk which is received at an approved plant:

5. Section 1102.11 is revised to read as follows:

**§ 1102.11 Producer milk.**

"Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler directly from producers.

6. Section 1102.12 is revised to read as follows:

**§ 1102.12 Other source milk.**

"Other source milk" means all skim milk and butterfat other than that contained in producer milk or received from other approved plants.

7. Section 1102.13 is revised to read as follows:

**§ 1102.13 Producer-handler.**

"Producer-handler" means any person who (a) produces milk, and (b) operates a milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products for fluid consumption are disposed of in the marketing area on wholesale or retail routes (including plant stores), and (c) receives no milk from producers.

8. Section 1102.16 is added to read as follows:

**§ 1102.16 Fluid milk product.**

"Fluid milk product" means the fluid form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream and any mixture of cream and milk or skim milk (except bulk ice cream mix).

9. In § 1102.32, paragraph (b) is added as follows:

**§ 1102.32 Other reports.**

(b) On or before the 2d day of the following month, each handler operating an approved plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of the product shipped.

10. In § 1102.41, paragraph (a) and subparagraphs (3) and (4) of paragraph (b) are revised to read as follows:

**§ 1102.41 Classes of utilization.**

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in the form of a fluid milk product, and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section.

(b) (3) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1102.42(b) (1), but not to exceed the following: Two percent of milk received directly from producers, plus two percent of milk received in bulk tank lots from other handlers and from other order plants and unregulated supply plants to be allocated pursuant to § 1102.46(a) (6) and the corresponding step of § 1102.46(b);

(4) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1102.42(b) (2), and

11. In § 1102.42, paragraph (b) is revised to read as follows:

**§ 1102.42 Shrinkage.**

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat in milk from producers, and in bulk tank lots from other handlers, from other order plants and from unregulated supply plants to be allocated pursuant to § 1102.46(a) (6) and (2) skim milk and butterfat in other source milk exclusive of that specified in § 1102.41(b) (3).

12. Section 1102.44 is revised to read as follows:

**§ 1102.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred;

otherwise as Class I milk, if transferred or diverted from an approved plant to the approved plant of another handler subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1102.46(a)(6) and the corresponding step of § 1102.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1102.46(a)(3), and the corresponding step of § 1102.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1102.46(a)(6) and the corresponding step of § 1102.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred or diverted from an approved plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to an unapproved plant that is neither an other order plant nor a producer-handler plant, located more than 185 miles by the shortest highway distance as determined by the market administrator from the approved plant from which transferred or diverted, except that cream so transferred without Grade A certification may be classified as Class II; and

(d) As Class I milk, if transferred or diverted in bulk to an unapproved plant that is neither an other order plant nor a producer-handler plant, located not more than 185 miles by the shortest highway distance as determined by the market administrator from the approved plant from which transferred or diverted, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1102.30 for the month within which such transaction occurred;

(2) The operator of such unapproved plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such unapproved plant;

(i) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the

Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such unapproved plant;

(ii) Class I utilization in excess of that assigned pursuant to subdivision (i) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such unapproved plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such unapproved plant from all approved and other order plants; and

(iii) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) In the class to which allocated under the terms of such other order, if transferred to a handler pool other order plant and pro rata to the class uses reflected in the uniform or weighted average price computed for the month under such other order if transferred to a market pool other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. With respect to bulk transfers if the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

13. Section 1102.46 is revised to read as follows:

**§ 1102.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1102.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1102.41(b)(3);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants.

(4) Subtract in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant;

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from approved plants of other handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(6) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1102.44(a);

(8) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

14. Section 1102.84 is revised to read as follows:

**§ 1102.84 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with re-

spect to (a) producer milk (including such handler's own production), and (b) other source milk allocated to Class I pursuant to § 1102.46(a) (3) and (6) (1) and the corresponding steps of § 1102.46 (b).

### PART 1103—MILK IN SOUTHERN MISSISSIPPI MARKETING AREA

Parts 1103 and 1107 are revised into a new part 1103 reading as follows:

#### DEFINITIONS

##### § 1103.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

##### § 1103.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

##### § 1103.3 Department.

"Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

##### § 1103.4 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

##### § 1103.5 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

##### § 1103.6 Southern Mississippi Marketing Area.

"Southern Mississippi marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the counties of Adams, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Lamar, Lauderdale, Lawrence, Lincoln, Madison, Marion, Neshoba, Newton, Pearl River, Perry, Rankin, Scott, Simpson, Smith, Stone, Walthall, Warren, and Wayne, all in the State of Mississippi, including all territory within such boundaries occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments.

##### § 1103.7 Route disposition.

"Route disposition" means any delivery of a fluid milk product from a plant to wholesale or retail outlets (including any delivery by a vendor, from a plant

store or through a vending machine) other than a delivery to a plant.

##### § 1103.8 Plant.

"Plant" means the land and buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products are received and/or processed or packaged: *Provided*, That a separate establishment or facility used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit for route disposition shall not be a plant under this definition.

##### § 1103.9 Distributing plant.

"Distributing plant" means a plant from which fluid milk products, eligible for distribution under a Grade A label, are disposed of during the month as route disposition in the marketing area.

##### § 1103.10 Supply plant.

"Supply plant" means a plant from which fluid milk products, eligible for distribution under a Grade A label, are moved during the month to a distributing plant.

##### § 1103.11 Pool plant.

"Pool plant" means:

(a) A distributing plant, other than the plant of a producer-handler, from which a volume of Class I milk not less than 50 percent of the Grade A milk received at such plant from dairy farmers is disposed of during the month as route disposition unless the volume so disposed of in the marketing area is either less than 20 percent of its total Class I route disposition or less than 4300 pounds on a daily average;

(b) A supply plant from which a volume of fluid milk products not less than 50 percent of the Grade A milk received at such plant from dairy farmers is transferred during the month to a distributing plant(s) from which a volume of Class I milk not less than 50 percent of its receipts of Grade A milk from dairy farmers and from other plants is disposed of as route disposition during the month and the volume so disposed of in the marketing area is at least 20 percent of its total Class I route disposition or a daily average of 4300 pounds, whichever is less: *Provided*, That any plant which was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for the remaining months through August; and

(c) A nondistributing plant, which is operated by a cooperative association and which does not meet the shipping requirements of paragraph (b) of this section in any month in which the volume of milk received at pool distributing plants directly from member producers of such cooperative association is not less

than 60 percent of the total pounds of such association's member producer milk received by all pool handlers during the month, except that on written request for nonpool status for any month, made to the market administrator prior to the beginning of such month, the plant shall be a nonpool plant for the month and for each of the succeeding 11 months in which it does not qualify as a pool plant pursuant to paragraph (b) of this section.

##### § 1103.12 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant" which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

##### § 1103.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with § 1103.15;

(d) Any person in his capacity as the operator of a nonpool supply plant; and

(e) A producer-handler, or any person who operates an other order plant.

##### § 1103.14 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant, and whose only source of supply for Class I milk is his own farm production and transfers from pool plants: *Provided*, That such person furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to

produce his own farm production and the operation of the plant are each the personal enterprise and the personal risk of such person.

#### § 1103.15 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received during the month at a pool plant or is diverted pursuant to paragraphs (a) through (e) of this section: *Provided*, That milk diverted in accordance with the provisions of said paragraphs shall be deemed to have been received by the diverting handler at the location of the pool plant from which it was diverted and: *Provided further*, That if a handler diverting milk pursuant to paragraph (d) or (e), diverts in excess of the limits prescribed all diversions by such handler during the month shall be pursuant to paragraph (c) and: *Provided also*, That if a handler diverting milk pursuant to paragraph (b) or (c), diverts milk of any dairy farmer in excess of the limits prescribed, such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant:

(a) Diverted by the operator of a pool plant to another pool plant;

(b) Diverted to a nonpool plant(s) (except a plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act) by the operator of a pool plant or by a cooperative association as a handler pursuant to § 1103.13(c) during any of the months of December through August: *Provided*, That this diversion privilege shall be applicable only to the milk of those dairy farmers who held producer status throughout the entire two immediately preceding months, except that only for the purpose of determining eligibility for diversion during any month of December through August, a dairy farmer who was in noncompliance with the Grade A requirements of a duly constituted health authority during any part of the two immediately preceding months shall be considered to have maintained producer status during the period of such noncompliance;

(c) Diverted to a nonpool plant(s) (except a plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act) for not more than 10 days' production during any month of September through November except that this paragraph shall not be applicable if (1) in the case of a cooperative association, all of the diversions of milk of member producers by such cooperative association during the month fall within the limits prescribed in paragraph (d) of this section, or (2) in the case of a pool handler (other than a cooperative association) diverting milk of nonmember producers, all of such diversions from such plant fall within the limits prescribed in paragraph (e) of this section;

(d) Diverted during any month of September through November to a nonpool plant(s) (except a nonpool plant

at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act) as milk of a member of a cooperative association for the account of such association if the amount of milk so diverted does not exceed 15 percent of the volume of Grade A milk from all producer members of such cooperative association received at pool plants during such month; or

(e) Diverted during any month of September through November to a nonpool plant(s) (except a nonpool plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act) as milk of a producer who is not a member of a cooperative association by a handler in his capacity as the operator of a pool plant from which the quantity of milk of nonmember producers so diverted does not exceed 15 percent of the total Grade A receipts of milk at such plant from nonmember producers.

#### § 1103.16 Producer milk.

"Producer milk" means only the skim milk or butterfat contained in milk (a) received at a pool plant(s) directly from producers, or (b) diverted in accordance with the provisions of § 1103.15 from a pool plant to another pool plant or to a nonpool plant.

#### § 1103.17 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products, except (1) such products which are received from other pool plants, (2) producer milk, and (3) inventory of fluid milk products at the beginning of the month; and

(b) Products other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month or for which other utilization or disposition is not established.

#### § 1103.18 Fluid milk product.

"Fluid milk product" means all the skim milk (including concentrated and reconstituted skim milk) and butterfat in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, eggnog, yogurt, cream (sweet or sour) and any mixture in fluid form of cream and skim milk or milk (except aerated cream, frozen storage cream, ice cream, ice cream mixes, frozen ice milk, ice milk mixes, frozen dessert and mixes, and sterilized products contained in hermetically sealed containers): *Provided*, That when any such product is fortified with nonfat milk solids the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unfortified product of the same nature and butterfat content.

#### § 1103.19 Chicago butter price.

"Chicago butter price" means the simple average, as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-acre bulk creamery butter at Chicago

as reported during the month by the Department.

#### MARKET ADMINISTRATOR

#### § 1103.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

#### § 1103.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate and report to the Secretary, complaints of violations;

(c) To make rules and regulations necessary to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

#### § 1103.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon, satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1103.95, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1103.94) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the

Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(i) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate:

(1) On or before the 6th day of each month, the minimum price for Class I milk computed pursuant to § 1103.51(a) and the Class I butterfat differential computed pursuant to § 1103.52(a), both for the current month, and the minimum price for Class II milk computed pursuant to § 1103.51(b) and the Class II butterfat differential computed pursuant to § 1103.52(b), both for the previous month;

(2) On or before the 10th day after the end of each of the months of August through February, the uniform price computed pursuant to § 1103.71, and the butterfat differential computed pursuant to § 1103.91; and

(3) On or before the 10th day after the end of each of the months of March through July, the uniform prices for base milk and for excess milk computed pursuant to § 1103.72, and the butterfat differential computed pursuant to § 1103.91;

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association, which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by each handler;

(k) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(l) On or before the 12th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1103.30, at his last known address, a statement showing any of the applicable following values:

(1) The amount and value of his producer milk in each class and the totals thereof;

(2) For the months of March through July, the amounts of his base milk and excess milk, respectively; and

(3) The amounts to be paid by such handler pursuant to §§ 1103.62, 1103.93, 1103.94, 1103.95, 1103.97 and 1103.99 and the amount due such handler pursuant to §§ 1103.93 and 1103.98:

#### REPORTS, RECORDS, AND FACILITIES

##### § 1103.30 Reports of receipts and utilization.

(a) On or before the 8th day after the end of each month each handler, for each of his pool plants, and each cooperative association which is a handler pursuant to § 1103.13(c) shall deliver to the market administrator a report in the detail and on the form prescribed by

the market administrator showing the following:

(1) The quantities of skim milk and butterfat contained in:

(i) Receipts of producer milk, including such handler's own production, and for the months of March through July, the aggregate of base and excess milk;

(ii) Receipts of fluid milk products from other pool plants;

(iii) Receipts of other source milk; and

(iv) Inventories of fluid milk products on hand at the beginning and at the end of such month;

(2) Utilization of all skim milk and butterfat required to be reported pursuant to this section including a statement of the route dispositions of fluid milk products outside the marketing area;

(3) Such other information with respect to sources and utilization of skim milk and butterfat as the market administrator may prescribe;

(b) Each handler specified in § 1103.13(b) who operates a partially regulated distributing plant, shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk;

(c) Except as provided in paragraph (b) of this section and § 1103.32, each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe; and

(d) Each pool handler, with respect to fluid milk products disposed of for animal feed, shall report to the market administrator such information and at such time as the market administrator may require.

##### § 1103.31 Payroll reports.

(a) On or before the 20th day of each month each handler operating a pool plant(s) and each cooperative association which is a handler pursuant to § 1103.13(c) shall report its producer payroll for the preceding month which shall show for each producer:

(1) His name;

(2) The daily and total pounds of milk received from such producer and for the base-operating months of March through July the total pounds of base and excess milk;

(3) The number of days on which milk was received from such producer;

(4) The average butterfat content of such milk; and

(5) The net amount of such handler's payment, the price paid and the amount and nature of any deductions;

(b) Each handler who received producer milk for which payment is to be made to a cooperative association pursuant to § 1103.90(c) shall report to such cooperative association with respect to each such producer, as follows:

(1) On or before the 20th day of each month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the 10th day after the end of each month;

(i) The daily and total pounds of milk received during the month with separate

totals for base and excess milk for the months of March through July, and the average butterfat test thereof; and

(ii) The amount or rate and nature of any deductions; and

(c) On or before the 20th day after the end of the month each handler (other than a producer-handler or one described in § 1103.61) operating a partially regulated distributing plant except one who elects at the time of reporting pursuant to § 1103.30 to make payments pursuant to § 1103.62(b) shall report his payments to dairy farmers qualified to be producers as if such plant were a pool plant; showing for each such dairy farmer:

(1) The pounds of milk;

(2) The average butterfat content thereof; and

(3) The date and net amount of payment to such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each.

##### § 1103.32 Other reports.

(a) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such other order plant, the identity of its plant operator, and the identity of the product shipped.

##### § 1103.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and other milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and milk products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers and disbursement of money so deducted.

##### § 1103.34 Retention of records.

All books and records required under this Part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month, to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specific books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and



records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

#### CLASSIFICATION

##### § 1103.40 Skim milk and butterfat to be classified.

All skim milk and butterfat required to be reported pursuant to § 1103.30 shall be classified pursuant to the provisions of §§ 1103.41 through 1103.46.

##### § 1103.41 Classes of utilization.

Subject to the conditions set forth in §§ 1103.42 through 1103.46 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2), and (3) of this section; and

(2) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all the skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in skim milk dumped, provided that the market administrator is notified in advance and given opportunity to verify such dumping;

(3) Disposed of for livestock feed if the conditions of § 1103.30(d) are met;

(4) Contained in inventory of fluid milk products on hand at the end of the month;

(5) Contained in actual shrinkage of skim milk and butterfat, respectively, not to exceed the amounts calculated for each pool plant as follows:

(i) Two percent of receipts of skim milk and butterfat directly from producers (excluding milk diverted pursuant to § 1103.15); plus

(ii) 1.5 percent of milk received in bulk from other pool plants, and from other order plants and unregulated supply plants to be allocated pursuant to § 1103.46(a) (7) and (8) and the corresponding steps of § 1103.46(b); less

(iii) 1.5 percent of bulk transfers to other pool plants and to nonpool plants; plus

(iv) Shrinkage on other source milk determined pursuant to § 1103.42(b) (2); and

(6) Skim milk contained in any fortified fluid milk product in excess of the pounds of skim milk in such product classified as Class I pursuant to paragraph (a) of this section by virtue of the proviso of § 1103.18.

##### § 1103.42 Shrinkage on other source milk.

The market administrator shall determine shrinkage on other source milk for each pool plant of a handler as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for such plant; and

(b) Prorate the resulting amounts between the skim milk and butterfat contained in:

(1) Receipts from producers, from other pool plants, from other order plants and unregulated supply plants to be allocated pursuant to § 1103.46(a) (7) and (8) and the corresponding steps of § 1103.46(b); and

(2) Other source milk in fluid form, exclusive of that specified in subparagraph (1) of this paragraph.

##### § 1103.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk or butterfat can prove to the satisfaction of the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

##### § 1103.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1103.46(a) (8) and the corresponding steps of § 1103.46(b);

(2) If the transferor plant received during the month, other source milk to be allocated pursuant to § 1103.46(a) (3) the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1103.46(a) (7) and (8) and the corresponding steps of § 1103.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred or diverted to the plant of a producer-handler;

(c) As Class I milk if diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant located more than 200 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the New State Capitol in Jackson or the County Court-house in Gulfport, Mississippi;

(d) Except as specified in paragraph (c) of this section, as Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assign-

ment resulting from subparagraph (3) of this paragraph.

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1103.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator and are adequate for verification of the Class II usage claimed; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order;

(iii) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the skim milk and butterfat in transfers of milk, skim milk, and cream in bulk from the nonpool plant to pool plants, classified as if it were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II utilization indicated: *Provided*, That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification;

(iv) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the Class II utilization remaining in the nonpool plant after deducting from such Class II utilization the sum of the skim milk and butterfat, respectively, in fluid milk products in opening inventory, in receipts of nonfluid milk products which are used to produce any product other than a fluid milk product in the plant during the month, and in non-Grade A receipts at the nonpool plant: *Provided*, That fluid cream transfers from such nonpool plant to a second nonpool plant meeting the conditions of subparagraph (2) of this paragraph and which is neither an other order plant nor a producer-handler plant shall be classified as Class II milk in an amount not in excess of Class II (pursuant to § 1103.41(b)(1)) processed in such second nonpool plant plus the bulk fluid cream shipped therefrom to other nonpool plants which are neither other order plants nor producer-handler plants and which do not dispose

of milk or cream in consumer packages for consumption in fluid form; and

(v) Any remaining skim milk and butterfat in the quantities transferred to the nonpool plant shall be Class I.

(e) Under the terms of such other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operator of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such order) to the extent of the Class II utilization available for such assignment.

#### § 1103.45 Computation of the skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization of each handler submitted pursuant to this part and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each pool plant of such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat dry milk solids contained in such product, plus all of the water originally associated with such solids.

#### § 1103.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1103.45, the market administrator shall determine the classification of producer milk received at each pool plant as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1103.41(b)(5)(i) through (iii);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of shrinkage classified as Class I) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler.

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph; and

(ii) The pounds of skim milk in receipts of fluid milk products from un-

regulated supply plants that were not subtracted pursuant to subparagraph (4)(i) or (ii) of this paragraph.

Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1103.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

#### MINIMUM PRICES

##### § 1103.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department of Agriculture for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

##### § 1103.51 Class prices.

Subject to the provisions of §§ 1103.52 and 1103.53, the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The minimum Class I milk price shall be the basic formula price for the preceding month, plus \$2.15 during the months of March through July and \$2.35 in all other months, subject to a supply-demand adjustment of not more than 45 cents calculated for each month pursuant to subparagraphs (1) through (5) of this paragraph: *Provided*, That during the first twelve months of this amended order the adjustment shall not exceed 25 cents;

(1) Divide the total receipts of producer milk by the total volume of Class I milk (excluding interhandler transfers

and any intermarket transfers that would result in the same milk being accounted for the second time as Class I milk) under this part and Part 1105 (regulating the handling of milk in the Mississippi Delta marketing area) in each of the following periods and round to one-tenth of one percent:

- (i) The two-year period ending with the second preceding month;
- (ii) The two-month period ending with the second preceding month; and
- (iii) The two-month period ending with the second preceding month and the same period of each of the two preceding years.

(2) Divide the utilization percentage for the three two-month periods computed pursuant to subparagraph (1) (iii) of this paragraph by the utilization percentage for the two-year period computed pursuant to subparagraph (1) (i) of this paragraph. Adjust the resulting "seasonal ratio" as follows:

- (i) Add to the seasonal ratio a similar computation for each of the 11 preceding periods;
- (ii) Divide 12 by the sum thus obtained; and
- (iii) Multiply the seasonal ratio by the quotient obtained in subdivision (ii) of this subparagraph;

(3) Compute the standard utilization percentage by multiplying the adjusted seasonal ratio of subparagraph (2) (iii) of this paragraph by 132.2;

(4) Subtract from the current utilization percentage computed pursuant to subparagraph (1) (ii) the standard utilization percentage for the month computed pursuant to subparagraph (3) of this paragraph and round to the nearest full percentage point. This result is the "deviation percentage"; and

(5) Compute the number of cents which is one times the plus or minus deviation, as the case may be, computed pursuant to subparagraph (4) of this paragraph, and decrease or increase, respectively, the Class I price by such amount: *Provided*, That if such adjustment varies from that for the preceding month by less than 5 cents, the supply-demand adjustment for the preceding month shall be the supply-demand adjustment for the current month.

(b) *Class II milk price.* The Class II milk price shall be the lesser of the following prices:

(1) The basic formula price for the months of August through February and the basic formula price less 10 cents in all other months; or

(2) The Class II milk price established pursuant to § 1094.51(b) of this chapter regulating the handling of milk in the New Orleans, Louisiana, marketing area.

**§ 1103.52 Butterfat differential to handlers.**

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1103.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12; and

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.11.

**§ 1103.53 Location differential to handlers.**

(a) For that milk which is received from producers at a pool plant and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1103.51(a) shall be reduced at the following rates (where mileage determinations are applicable these distances shall be determined by the market administrator by applying the shortest hard-surfaced highway distance open to commercial truck traffic):

Location:	Rate per Hundredweight (Cents)
(1) For milk received at a pool plant located in the following Mississippi counties: Adams, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, Hinds, Jasper, Jefferson, Jefferson Davis, Jones, Lamar, Lauderdale, Lawrence, Lincoln, Madison, Marion, Neshoba, Newton, Perry, Rankin, Scott, Simpson, Smith, Walthall, Warren and Wayne .....	10.0
(2) For milk received at a pool plant located outside the marketing area and in the State of Mississippi beyond the northern boundary of the marketing area but less than 30 miles north of the U.S. Highway No. 82.....	26.0
(3) Except as provided in subparagraph (2) of this paragraph, for milk received at a pool plant located outside the marketing area and,	
(1) More than 60 but not more than 160 miles from the Courthouse in Gulfport or Pascagoula, Mississippi, whichever is nearer.....	10.0
(2) For each additional 10 miles or fraction thereof, an additional....	1.5

and  
(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products in bulk from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and the pounds assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

**§ 1103.54 Use of equivalent prices.**

If, for any reason, a price specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

**APPLICATION OF PROVISIONS**

**§ 1103.60 Producer-handler.**

Sections 1103.42 to 1103.46, 1103.50 to 1103.54, 1103.61, 1103.62, 1103.70 to 1103.72, 1103.80 to 1103.83, and 1103.90 to 1103.99 shall not apply to a producer-handler.

**§ 1103.61 Plants subject to other Federal orders.**

The provisions of this part shall not apply to a plant specified in paragraph (a), (b) or (c) of this section except that the operator thereof, with respect to receipts and utilization of skim milk and butterfat, shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe and allow verification of such reports by the market administrator.

(a) A plant meeting the requirements of § 1103.11(a) which also meets the pooling requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk is disposed of during the month as route dispositions in such other Federal order marketing area than was disposed of as route dispositions in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A plant meeting the requirements of § 1103.11(a) which also meets the pooling requirements of another Federal order with marketwide pooling on the basis of distribution in such other marketing area and from which, the Secretary determines, a greater quantity of Class I milk is disposed of during the month on routes in this marketing area than is so disposed of in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(c) A plant meeting the requirements of § 1103.11(b) which also meets the pooling requirements of another Federal order with marketwide pooling and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part except during the months of February through August if such plant retains automatic pooling status under this part.

**§ 1103.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1103.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1103.70 at the partially regulated distributing plant and at any other nonpool plant(s) which serves as a supply plant(s) for the partially regulated distributing plant and meets requirements equivalent to

§ 1103.11(b) shipments to the partially regulated distributing plant shall be determined as though such plants were pool plants. For purposes of such computation receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or an other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or an other order plant and be valued at the weighted average price of the respective order, if so allocated to Class I milk; and

(2) From this obligation there will be deducted the sum of (i) the gross payments made by the operator of a partially regulated distributing plant for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1103.11(b) by shipments to the partially regulated distributing plant and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant; and

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

#### DETERMINATION OF PRICES TO PRODUCERS

##### § 1103.70 Computation of the net pool obligation of each pool handler.

For each month the market administrator shall compute the obligation of each pool handler by making the computations provided in paragraphs (a) through (g) of this section for each of his pool plants, and adding together the resulting totals (except that for the first month of the effective date of this order a credit shall be allowed at each pool plant of those handlers previously regulated by the Central Mississippi order in an amount computed by multiplying the difference between the Class I and Class II price of the Central Mississippi order for the preceding month by the hundredweight of skim milk and butterfat contained in opening inventory):

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1103.46(c), by the applicable class prices (adjusted pursuant to §§ 1103.52 and 1103.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1103.46(a)(10) and the corresponding step of § 1103.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1103.46(a)(5) and the corresponding step of § 1103.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1103.46(a)(3) and the corresponding step of § 1103.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1103.46(a)(8)(ii) and the corresponding step of § 1103.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1103.46(a)(7) and the corresponding step of § 1103.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1103.53.

##### § 1103.71 Computation of the weighted average price and uniform price.

For each month the market administrator shall compute the weighted average price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1103.70 for all handlers specified in § 1103.13 (a) and (c) who filed reports prescribed by § 1103.30, and who made payments pursuant to § 1103.90 and § 1103.97 for the preceding month;

(b) Subtract, if the average butterfat content of the milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the variation in the average butterfat content of such milk from 3.5 percent by the butterfat differential computed pursuant to § 1103.91, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made for location differentials pursuant to § 1103.92;

(d) Add not less than one-half of the unobligated balance on hand 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 values are computed pursuant to § 1103.70 (e) and (f); and

(f) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price", and, except for the months of March through July, shall be the "uniform price" for milk received from producers.

##### § 1103.72 Computation of uniform prices for base milk and for excess milk.

For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(a) *Excess milk price.* (1) Assign the total hundredweight of excess milk, received by all pool handlers whose receipts are included in the computation pursuant to § 1103.71 to producer milk in each class in series beginning with Class II;

(2) Multiply the pounds of excess milk assigned to each class pursuant to subparagraph (1) of this paragraph by the applicable class price and add the resulting totals;

(3) Add the amount of any adjustment applicable pursuant to the proviso of subparagraph (b)(2) of this section; and

(4) Divide the resulting total by the hundredweight of excess milk and round to the nearest cent. The result shall be the "uniform price for excess milk"; and

(b) *Base milk price.* (1) From the aggregate value of all milk obtained in § 1103.71 (a) through (d) subtract the following:

(i) An amount computed by multiplying the hundredweight of milk specified in § 1103.71(e)(2) by the weighted average price; and

(ii) An amount computed by multiplying the hundredweight of excess milk determined pursuant to paragraph (a) of this section by the uniform price for excess milk;

(2) Divide the result by the total hundredweight of base milk received by all pool handlers whose receipts are included in the computation pursuant to § 1103.71: *Provided*, That if the resulting price should exceed the Class I price by more than the amount deducted pursuant to subparagraph (3) of this paragraph the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to paragraph (a) of this section, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk; and

(3) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the "uniform price for base milk".

## BASE RATING

## § 1103.80 Determination of daily base.

The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all pool plants from such producer during the months of September through January by the larger of:

- (a) 120 days; or
- (b) The number of days beginning with the first day in such months on which milk is received from such producer and ending with January 31 (plus the number of days prior to the day of such first receipts on which such milk was produced, and minus the number of days in January on which milk received from such producer in February was produced).

## § 1103.81 Computation of base.

The base of each producer to be applied during the months of March through July shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days production delivered by such producer to handlers during the month.

## § 1103.82 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base shall be assigned to the producer for whose account milk is received at a pool plant during the months of September through January and to each person for whose account milk was delivered to a plant that did not qualify as a pool plant during each month of the base-forming period, but which qualifies as a pool plant during any of the months of March through July, bases shall be assigned on deliveries at such plant in the same manner as if such plant had been a pool plant during each month of the base-forming period; and

(b) An entire base shall be transferred by the market administrator to another person upon receipt of an application form, approved by the market administrator, and signed by the base-holder(s), or his heirs, and by the person to whom such base is transferred subject to the following conditions:

(1) If a base is transferred to a producer already holding a base, a new base shall be computed by adding together the producer milk deliveries of the transferee and the transferor during the base-forming period and dividing the total by the larger of:

- (i) 120 days; or
- (ii) The number of days beginning with the first day on which milk is received from either the transferee or transferor during the base-forming period and ending with January 31 (plus the number of days prior to the day of such first receipt on which such milk was produced, and minus the number of days in January on which milk received from such producer in February was produced).

## § 1103.83 Announcement of established bases.

On or before March 1 of each year, the market administrator shall notify

each producer and the handler receiving milk from such producer of the daily base established by such producer.

## PAYMENTS

## § 1103.90 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) pursuant to § 1103.71 or § 1103.72 adjusted by the producer butterfat differential computed pursuant to § 1103.91, subject to the location adjustment to producers pursuant to § 1103.92, and less the following amounts: (1) The payments made pursuant to paragraph (b) of this section, (2) marketing service deductions pursuant to § 1103.94, and (3) any proper deductions authorized in writing by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1103.98 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(b) On or before the last day of each month to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section, and (2) who had not discontinued shipping milk to such handler before the 18th day of the month, an advance payment with respect to milk received from such producer during the first 15 days of the month at not less than the Class II price for 3.5 percent milk for the preceding month;

(c) To a cooperative association which has filed request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the date, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

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

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1103.94, together with a description of the respective deduction; and

(6) The net amount of payment to the producer;

(e) To a cooperative association for milk received from such association in its capacity as a handler as follows:

(1) On or before the 26th day of each month an amount equal to not less than the Class II price for 3.5 percent milk for the preceding month multiplied by the hundredweight of milk received from such association during the first 15 days of the current month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the utilization value of such milk computed at the applicable class prices less amounts paid pursuant to subparagraph (1) of this paragraph.

## § 1103.91 Producer butterfat differential.

In making payments pursuant to § 1103.90, the uniform price(s) shall be increased or decreased for each one-tenth of one percent that the butterfat content in milk received from each producer is above or below 3.5 percent, as the case may be, by a butterfat differential equal to the average of the butterfat differentials pursuant to § 1103.52 weighted by the pounds of butterfat in producer milk in each class, rounded to the nearest one-tenth cent.

## § 1103.92 Location differential to producers and on nonpool milk.

(a) In making payment to producers pursuant to § 1103.90, the uniform price pursuant to § 1103.71 and the uniform price for base milk pursuant to § 1103.72 to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1103.53; and

(b) For purposes of computations pursuant to §§ 1103.97 and 1103.98 the weighted average price shall be adjusted at the rates set forth in § 1103.53 applicable at the location of the nonpool plant from which the milk was received.

## § 1103.93 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or verification of weights and butterfat tests of milk or milk products discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and pay-

ment thereof shall be made on or before the next date for making payments set forth under which such error occurred.

#### § 1103.94 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1103.90(a), shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of the milk for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month, and pay such deductions to such cooperative association.

#### § 1103.95 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1103.46(a) (3) and (8)(ii) and the corresponding steps of § 1103.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant as route dispositions in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

#### § 1103.96 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1103.62, 1103.93 and 1103.97, and out of which he shall make all payments pursuant to §§ 1103.93 and 1103.98: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

#### § 1103.97 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay

to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1103.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1103.90; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1103.70 (e) and (f).

#### § 1103.98 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1103.97(b) exceeds the amount computed pursuant to § 1103.97(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 compute such payments as soon as the appropriate funds are available.

#### § 1103.99 Overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1103.62, 1103.93, 1103.94(a), 1103.95, 1103.97 or 1103.98 shall be increased one-half of one percent each month or fraction thereof starting the third day after the date such obligation is due until such obligation is paid. Any remittance received by the market administrator postmarked not later than the date such obligation is due shall be considered to have been received when due.

#### § 1103.100 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market

administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an under payment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

#### MISCELLANEOUS PROVISIONS

#### § 1103.105 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1103.106.

#### § 1103.106 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate, in any event, whenever the provisions of the Act authorizing it cease to be in effect.

#### § 1103.107 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

#### § 1103.108 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or

such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

#### § 1103.109 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

#### § 1103.110 Separability of provisions.

If any provision of this part, or its application to any persons or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

### PART 1105—MILK IN MISSISSIPPI DELTA MARKETING AREA

1. Section 1105.11 is revised to read as follows:

#### § 1105.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full regulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a pool plant during the

month, but which is neither an other order plant nor a producer-handler plant.

2. Section 1105.12 is revised to read as follows:

#### § 1105.12 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s); or

(b) Any person who operates a partially regulated distributing plant; or

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with § 1105.15; or

(d) A producer-handler, or any person who operates an other order plant.

3. Section 1105.14 is revised to read as follows:

#### § 1105.14 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received during the month at a pool plant or is diverted pursuant to § 1105.15.

4. In § 1105.30 the introductory text of this section through paragraph (a)(1) is revised to read as follows:

#### § 1105.30 Reports of receipts and utilization.

On or before the 6th day of each month each handler who operates a pool plant(s), each handler, other than a producer-handler, who operates a partially regulated distributing plant, and any cooperative association with respect to milk for which it is a handler shall report for the preceding month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Milk received from producers and for the months of March through July the total quantity of base and excess milk. In lieu thereof, the operator of a partially regulated distributing plant shall report aggregate receipts from dairy farmers who would be producers if such plant were a pool plant;

5. In § 1105.31, paragraph (c) is revised and a new paragraph (d) is added to read as follows:

#### § 1105.31 Other reports.

(c) On or before the 20th day after the end of the month each handler operating a partially regulated distributing plant who does not elect at the regular time of reporting pursuant to § 1105.30 to make payments pursuant to § 1105.62(b) shall report his payments to dairy farmers qualified to be producers if such plant were a pool plant, showing for each such dairy farmer:

(1) The pounds of milk;  
(2) The average butterfat content thereof; and

(3) The date and net amount of payment to such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each.

(d) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such other order plant, the identity of its plant operator, and the identity of product shipped.

6. In § 1105.41, subparagraphs (b) (3) and (4) are revised to read as follows:

#### § 1105.41 Classes of utilization.

(b) \* \* \*

(3) The shrinkage assigned pursuant to § 1105.42(b)(1) but not in excess of 2 percent of receipts of skim milk and butterfat directly from producers, plus 1.5 percent of receipts of skim milk and butterfat, respectively, transferred in the form of bulk fluid milk products from pool plants of other handlers and from other order plants and unregulated supply plants to be allocated pursuant to § 1105.46(a)(7) and the corresponding step of § 1105.46(b), less 1.5 percent of receipts of skim milk and butterfat, respectively, transferred in the form of bulk fluid milk products to pool plants of other handlers;

(4) The shrinkage of other source milk assigned pursuant to § 1105.42(b)(2);

7. Section 1105.42 is revised to read as follows:

#### § 1105.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the skim milk and butterfat contained in (1) receipts from producers, from pool plants of other handlers, from other order plants and unregulated supply plants to be allocated pursuant to § 1105.46(a)(7) and the corresponding step of § 1105.46(b); and (2) other source milk in fluid form, exclusive of that specified in subparagraph (1) of this paragraph.

8. Section 1105.44 is revised to read as follows:

#### § 1105.44 Transfers.

Skim milk and butterfat transferred or diverted during the month as a fluid milk product from a pool plant to:

(a) The pool plant of another handler shall be classified at the utilization indicated by the operator of both plants otherwise as Class I, subject in either event to the following conditions:

(1) The skim milk and butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1105.46(a)(7) and the corresponding step of § 1105.46(b);

(2) If the transferor plant received during the month other source milk to

be allocated pursuant to § 1105.46(a) (3) and the corresponding step of § 1105.46 (b); the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1105.46(a) (7) and the corresponding step of § 1105.46 (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) A plant operated by a producer-handler shall be Class I milk;

(c) An other order plant shall be classified in the class to which allocated under the terms of such other order. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. If the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with their respective market administrators such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

(d) A nonpool plant that is neither an other order plant nor a producer-handler plant shall be classified as Class I milk unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1105.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator and are adequate for the verification of the Class II usage claimed; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order;

(iii) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the skim milk and butterfat in transfers of milk, skim milk, and cream in bulk from the nonpool plant to pool plants, classified as if it were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II utilization indicated: *Provided*, That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing or such Class I classification;

(iv) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the Class II utilization remaining in the nonpool plant after deducting from such Class II utilization the sum of the skim milk and butterfat, respectively, in fluid milk products in opening inventory, in receipts of nonfluid milk products which are used to produce any product other than a fluid milk product in the plant during the month, and in non-Grade A receipts at the nonpool plant: *Provided*, That fluid cream transfers from such nonpool plant to a second nonpool plant meeting the conditions of subparagraph (2) of this paragraph and which is neither an other order plant nor a producer-handler plant shall be classified as Class II milk in an amount not in excess of Class II (pursuant to § 1105.41(b)(1)) processed in such second nonpool plant plus the bulk fluid cream shipped therefrom to other nonpool plants which are neither other order plants nor producer-handler plants and which do not dispose of milk or cream in consumer packages for consumption in fluid form; and

(v) Any remaining skim milk and butterfat in the quantities transferred to the nonpool plant shall be Class I.

9. Section 1105.46 is revised to read as follows:

§ 1105.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1105.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1105.41(b) (3);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant;

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I milk) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4) (ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1105.44(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant



to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§§ 1105.47 and 1105.48 [Revocations]

10. Sections 1105.47 and 1105.48 are revoked.

11. Section 1105.52 is revised to read as follows:

§ 1105.52 Location adjustment to handlers.

(a) For milk received from producers at a pool plant located 30 miles or more north of U.S. Highway No. 82 and within the State of Mississippi, by shortest highway distance open to commercial truck traffic, as determined by the market administrator, or at a pool plant located outside the State of Mississippi and 30 miles or more by shortest highway distance open to commercial truck traffic, as determined by the market administrator, from the nearer of the City Halls at Greenville or Columbus, Mississippi, and which is classified as Class I, and for other source milk for which a Class I location adjustment is applicable, the prices determined pursuant to § 1105.50 (a) shall be reduced 7.5 cents, plus an additional 1.5 cents for each 10 miles that such distance exceeds 40 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants and receipts of fluid milk products in bulk from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers, and the pounds assigned as Class I to receipts from market pool other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1105.53 [Revocation]

12. Section 1105.53 is revoked.

§ 1105.54 [Redesignation]

13. Section 1105.54 is redesignated as § 1105.53.

14. Section 1105.62 is revised to read as follows:

§ 1105.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month the lesser of the amounts calculated pursuant to paragraph (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1105.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:  
(1) The obligation that would have been computed pursuant to § 1105.70 at the partially regulated distributing plant and at any other nonpool plant(s) which

serves as a supply plant(s) for the partially regulated distributing plant and meets requirements equivalent to § 1105.10(b) by shipments to the partially regulated distributing plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk;

(2) From this obligation there will be deducted the sum of (i) the gross payments made by the operator of a partially regulated distributing plant for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1105.10(b) by shipments to the partially regulated distributing plant and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

15. Section 1105.70 is revised to read as follows:

§ 1105.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1105.46(c), by the applicable class prices (adjusted pursuant to §§ 1105.51 and 1105.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1105.46(a)(9) and the corresponding step of § 1105.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1105.46(a)(5) and the corresponding step of § 1105.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1105.46(a)(3) and the corresponding step of § 1105.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1105.46(a)(7)(i) and the corresponding steps of § 1105.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1105.46(a)(7)(iii), and the corresponding step of § 1105.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1105.53.

16. Section 1105.71 is revised to read as follows:

§ 1105.71 Computation of the 3.5 percent value of all milk.

For each month, the market administrator shall compute the 3.5 percent value of milk, as follows:

(a) Combine into one total the individual value of milk computed pursuant to § 1105.70 for all handlers, except those who failed to make payments required pursuant to §§ 1105.90 and 1105.95 for the preceding month;

(b) Add, if the weighted average butterfat test of all milk represented in paragraph (a) of this section is less than 3.5 percent, or subtract if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 1105.75 multiplied by 10.

(c) Add the total of the values of the applicable location adjustments pursuant to § 1105.76; and

(d) Add not less than one-half of the unobligated balance in the producer-settlement fund.

17. Section 1105.72 is revised to read as follows:

§ 1105.72 Weighted average and uniform price.

For each month the weighted average price, and, except for the months of March through July, the uniform price per hundredweight for all milk containing 3.5 percent butterfat received at pool plants (before location adjustments) shall be computed as follows:

(a) Divide the amount computed pursuant to § 1105.71 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 values are computed pursuant to § 1105.70(e) and (f); and

(b) Subtract not less than 4 cents nor more than 5 cents.

#### § 1105.73 [Amendment]

18. In § 1105.73(b) the designation "§ 1105(a)" is changed to "§ 1105.50(a)".

19. In § 1105.74, paragraph (b) is revised to read as follows:

#### § 1105.74 Uniform base milk price.

(b) From the aggregate value determined pursuant to § 1105.71 subtract the following:

(i) An amount computed by multiplying the hundredweight of milk specified in § 1105.72(a)(2) by the weighted average price; and

(ii) The value of excess milk determined pursuant to paragraph (a) of this section;

20. Section 1105.76 is revised to read as follows:

#### § 1105.76 Location differentials to producers and on nonpool milk.

(a) In making payments to producers and cooperative associations, a handler may deduct from applicable uniform prices with respect to all milk received from producers at the handler's pool plant the amount per hundredweight applicable to the plant as set forth in § 1105.52.

(b) For purposes of computations pursuant to §§ 1105.95 and 1105.96 the weighted average price shall be adjusted at the rates set forth in § 1105.52 applicable at the location of the nonpool plant from which the milk was received.

21. Section 1105.93 is revised to read as follows:

#### § 1105.93 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1105.46(a)(3) and (7)(i) and the corresponding steps of § 1105.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

22. Section 1105.95 is revised to read as follows:

#### § 1105.95 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section ex-

ceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1105.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1105.90; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1105.70 (e) and (f).

23. Section 1105.96 is revised to read as follows:

#### § 1105.96 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1105.95(b) exceeds the amount computed pursuant to § 1105.95(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 such payments uniformly per hundredweight of producer milk and shall complete such payments as soon as the appropriate funds are available.

### PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.6 is revised to read as follows:

#### § 1108.6 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received during the month at a pool plant: *Provided*, That if such milk is diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of February through August, or on not more than 10 days during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

2. Section 1108.11 is revised to read as follows:

#### § 1108.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, and may be either:

(1) "Market pool other order plant", which means a plant subject to full regulation under another Federal order with provision for marketwide pooling; or

(2) "Handler pool other order plant", which means a plant subject to full reg-

ulation under another Federal order with provision for handler pooling.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means an approved plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are shipped during the month to a pool plant qualified pursuant to § 1108.10 and which is not an other order plant nor a producer-handler plant.

3. In § 1108.30, paragraph (c) is added to read as follows:

#### § 1108.30 Reports of receipts and utilization.

(c) Each handler who operates a partially regulated distributing plant shall report as required in § 1108.31(b)(2) and (4) and paragraphs (a) and (b) of this section, with receipts in Grade A milk from dairy farmers reported in lieu of those in producer milk, except that quantities of base milk and excess milk need not be reported.

4. Section 1108.31 is revised to read as follows:

#### § 1108.31 Other reports.

(a) Each producer-handler and each handler making payments pursuant to § 1108.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler, except a producer-handler and a handler making payments pursuant to § 1108.62(b), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 7th day of each month of March through August 1964 and April through August thereafter, for each producer for the previous month:

(i) His name and address or other appropriate identification;

(ii) The total pounds of milk and butterfat received from such producer;

(iii) The location at which such milk was received; and

(iv) The number of days on which milk was received from such producer;

(2) On or before the 20th day after the end of the month, for each pool plant, his producer payroll for such month which shall show for each producer:

(i) His name and address;

(ii) The total pounds of milk received from such producer, including for the months of February through July 1964 and March through July thereafter, the pounds of base milk;

(iii) The days for which milk was received from such producer, if less than the entire month;

(iv) The average butterfat content of such milk; and

(v) The net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions;

(3) On or before the day prior to diverting producer milk pursuant to § 1108.6 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted; and

(4) Such other information with respect to his sources and utilization of butterfat and skim milk as the market administrator may prescribe.

(c) On or before the 2d day of the following month, each handler operating a pool plant that during the month has shipped fluid milk products in bulk to an other order plant shall report to the market administrator the location of such plant, the identity of the plant operator, and the identity of the product shipped.

5. In § 1108.41(b) (5), subdivision (iii) is revised to read as follows:

§ 1108.41 Classes of utilization.

(b) \* \* \*

(iii) One and one-half percent of milk received in bulk from pool plants of other handlers, from other order plants and unregulated supply plants to be allocated pursuant to § 1108.46(a) (7) and the corresponding step of § 1108.46(b), and from cooperative associations pursuant to § 1108.12(c) unless two percent shrinkage is assigned pursuant to subdivision (ii) of this subparagraph; less

6. In § 1108.42(b), subparagraph (2) is revised to read as follows:

§ 1108.42 Shrinkage.

(b) \* \* \*

(2) The pounds of skim milk and butterfat in other source milk received in the form of bulk fluid milk products, exclusive of that specified in § 1108.41(b) (5).

7. Section 1108.44 is revised to read as follows:

§ 1108.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, or by the handler pursuant to § 1108.12(c) and the plant operator, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, or if received at a pool plant from a handler pursuant to § 1108.12(c), except as provided in paragraph (f) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1108.46(a) (7) and the corresponding step of § 1108.46(b);

(2) If the transferor plant received during the month other source milk to

be allocated pursuant to § 1108.46(a) (3) and the corresponding step of § 1108.46(b); the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1108.46(a) (7) and the corresponding step of § 1108.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the plant from which transferred or diverted;

(d) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant that is neither an other order plant nor a producer-handler plant shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1108.30, (2) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (3) such cream is not disposed of by the transferee plant under Grade A label.

(e) As Class I milk, if transferred or diverted in the form of bulk milk or skim milk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the plant from which transferred or diverted, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1108.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from market pool other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and market pool other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(f) If a specified utilization is not claimed by both handlers, subject to paragraph (a) of this section, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is a handler pursuant to § 1108.12(c) shall be classified pro rata to the respective amounts remaining in each class for such month at the pool plant of the receiving handler after the computations pursuant to § 1108.46(a) (8) and the corresponding step of § 1108.46(b); and

(g) In the class to which allocated under the terms of such other order, if transferred to an other order plant. For this purpose, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II. With respect to bulk transfers, if the operators of both the transferor and transferee plant so request in the reports of receipts and utilization filed with the respective market administrator such allocation shall be to Class II (or comparable classes under such other order) to the extent of the Class II utilization available for such assignment.

8. Section 1108.46 is revised to read as follows:

§ 1108.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1108.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1108.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of non-Grade A fluid milk products; and

(iii) Receipts of fluid milk products from producer-handler plants;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk (excluding shrinkage classified as Class I) by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants, from cooperative associations as handlers pursuant to § 1108.12(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from market pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph; and

(iii) Receipts of fluid milk products in bulk from handler pool other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds

of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1108.44(a);

(9) Subtract, pro rata from the pounds of skim milk remaining in each class, the pounds of skim milk to be classified pursuant to § 1108.44(f); and

(10) If the pounds of skim milk remaining in both classes, exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

9. Section 1108.53 is revised to read as follows:

**§ 1108.53 Location adjustments to handlers.**

(a) For milk received from producers at a pool plant located more than 60 miles by shortest highway distance as measured by the market administrator, from the nearer of the County Courthouse in Arkadelphia, Arkansas, or the State Capitol in Little Rock, Arkansas, which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which a location adjustment is applicable, the price computed pursuant to § 1108.51(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is from the respective buildings designated above; and

(b) For purposes of calculating such adjustment, transfers of fluid milk products between pool plants and receipts of fluid milk products in bulk from handler pool other order plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1108.12(c), and the pounds assigned as Class I to receipts from market pool other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

**§ 1108.54 [Revocation]**

10. Section 1108.54 is revoked.

11. Section 1108.62 is revised to read as follows:

**§ 1108.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the

25th day after the end of the month the lesser of the amounts calculated pursuant to paragraphs (a) or (b) of this section, unless the handler elects, at the time of reporting pursuant to § 1108.30 to pay amounts computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1108.70 at the partially regulated distributing plant and at any other nonpool plant(s) which serves as a supply plant(s) for the partially regulated distributing plant and meets requirements equivalent to § 1108.9 by shipment to the partially regulated distributing plant shall be determined as though such plants were pool plants. For purposes of such computation, receipts at such nonpool plant(s) from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant(s) to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by the operator of the partially regulated distributing plant for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) which serves as a supply plant(s) and meets requirements equivalent to § 1108.9 by shipment to the partially regulated distributing plant and (ii) any payments to the producer-settlement fund of an other order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and market pool other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

12. Section 1108.70 is revised to read as follows:

**§ 1108.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pur-

suant to § 1108.46(c), by the applicable class prices (adjusted pursuant to §§ 1108.52 and 1108.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1108.46(a)(10) and the corresponding step of § 1108.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.46(a)(5) and the corresponding step of § 1108.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1108.46(a)(3) and the corresponding step of § 1108.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1108.46(a)(7)(i) and the corresponding step of § 1108.46(b); and

(f) Add the value of the skim milk and butterfat, respectively in receipts of fluid milk products from handler pool other order plants subtracted from each class pursuant to § 1108.46(a)(7)(iii) and the corresponding step of § 1108.46(b), at the applicable class prices adjusted for butterfat content and subject to location adjustment credit pursuant to § 1108.53.

13. Section 1108.71 is revised to read as follows:

**§ 1108.71 Computation of the uniform price.**

For each month the market administrator shall compute the uniform price (or weighted average price) per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1108.70 for all handlers who filed the reports prescribed by § 1108.30 for the month and who made the payments pursuant to §§ 1108.80 and 1108.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1108.74;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1108.73 and multiplying the result by the total hundredweight of such milk;

(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 values are computed pursuant to § 1108.70 (e) and (f);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months of February through July 1964 and March through July thereafter, shall be the "uniform price" for milk received from producers.

14. Section 1108.72 is revised to read as follows:

**§ 1108.72 Computation of uniform prices for base milk and excess milk.**

For each of the months of February through July 1964 and March through July thereafter, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(a) Subtract from the amount resulting from the computations made pursuant to § 1108.71(a) through (d) an amount computed by multiplying the hundredweight of milk specified in § 1108.71(e)(2) by the weighted average price;

(b) Compute the aggregate value of excess milk as follows:

(1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk of handlers included in these computations by the Class II milk price;

(2) Multiply any additional hundredweight of such milk by the Class I price; and

(3) Add together the resulting amounts;

(c) Divide the aggregate value of excess milk obtained in paragraph (b) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract four cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(d) Subtract an amount determined by multiplying the uniform price obtained in paragraph (c) of this section, plus four cents, times the hundredweight of excess milk from the aggregate value of milk obtained in paragraph (a) of this section;

(e) Divide the result obtained in paragraph (d) of this section by the total hundredweight of base milk of handlers included in these computations; and

(f) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

15. Section 1108.74 is revised to read as follows:

**§ 1108.74 Location differentials to producers and on nonpool milk.**

(a) The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from

the County Courthouse in Arkadelphia, Arkansas, or the State Capital in Little Rock, Arkansas, whichever is nearer by the shortest highway distance, as determined by the market administrator, shall be reduced according to the distance of the plant from the respective buildings designated above at the rate of 1.5 cents for each 10 miles or residual fraction thereof; and

(b) For purposes of computations pursuant to §§ 1108.82 and 1108.83 the weighted average price shall be adjusted at the rates set forth in § 1108.53 applicable at the location of the nonpool plant from which the milk was received.

16. Section 1108.82 is revised to read as follows:

**§ 1108.82 Payments to the producer-settlement fund.**

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1108.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1108.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1108.70 (e) and (f).

17. Section 1108.83 is revised to read as follows:

**§ 1108.83 Payments out of the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1108.82(b) exceeds the amount computed pursuant to § 1108.82(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 such payments as soon as the appropriate funds are available.

18. Section 1108.86 is revised to read as follows:

**§ 1108.86 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk received by a cooperative association as a handler pursuant to § 1108.12(c), except that transferred to another handler operating a pool plant, (b) producer milk of a handler operating a pool plant (including such handler's own production),

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plus milk received from a cooperative association as a handler pursuant to § 1108.12(c), (c) other source milk allocated to Class I pursuant to § 1108.46(a) (3) and (7) (1) and the corresponding steps of § 1108.46(b), and (d) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

Signed at Washington, D.C., on January 23, 1964.

**GEORGE L. MEHREN,**  
*Assistant Secretary.*

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