

## **PART 1135 -- MILK IN THE WESTERN MARKETING AREA**

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## **Subpart -- Order Regulating Handling**

### GENERAL PROVISIONS

#### **§ 1135.1 General provisions.**

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order. In this part 1135, all references to sections in part 1000 refer to part 1000 of this chapter.

### DEFINITIONS

#### **§ 1135.2 Western marketing area.**

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

#### Utah

All of the State of Utah.

#### Idaho Counties

Ada, Adams, Bannock, Bear Lake, Bingham, Blaine, Boise, Bonneville, Camas, Canyon, Caribou, Cassia, Elmore, Franklin, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Twin Falls, Valley, and Washington.

#### Nevada Counties

Elko, Lincoln, and White Pine.

#### Oregon Counties

Baker, Grant, Harney, Malheur, and Union.

#### Wyoming Counties

Lincoln and Uinta.

#### **§ 1135.3 Route disposition.**

See § 1000.3.

#### **§ 1000.3 Route disposition.**

Route disposition means a delivery to a retail or wholesale outlet (except a plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine) of a fluid milk product in consumer-type packages or dispenser units classified as Class I milk.

**§ 1135.4 Plant.**

See § 1000.4.

**§ 1000.4 Plant.**

(a) Except as provided in paragraph (b) of this section, plant means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed, or packaged, including a facility described in paragraph (b)(2) of this section if the facility receives the milk of more than one dairy farmer.

(b) Plant shall not include:

(1) A separate building without stationary storage tanks that is used only as a reload point for transferring bulk milk from one tank truck to another or a separate building used only as a distribution point for storing packaged fluid milk products in transit for route disposition; or

(2) An on-farm facility operated as part of a single dairy farm entity for the separation of cream and skim or the removal of water from milk.

**§ 1135.5 Distributing plant.**

See § 1000.5.

**§ 1000.5 Distributing plant.**

Distributing plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk at which fluid milk products are processed or packaged and from which there is route disposition or transfers of packaged fluid milk products to other plants.

**§ 1135.6 Supply plant.**

See § 1000.6.

**§ 1000.6 Supply plant.**

Supply plant means a plant approved by a duly constituted regulatory agency for the handling of Grade A milk that receives milk directly from dairy farmers and transfers or diverts fluid milk products to other plants or manufactures dairy products on its premises.

**§ 1135.7 Pool plant.**

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

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

products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area.

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

(c) A supply plant from which during the month the quantity of bulk fluid milk products transferred or diverted to plants described in paragraph (a) or (b) of this section is 35 percent or more of the total Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1135.12(b)) and handlers described in § 1000.9(c) and § 1135.11, including milk diverted by the plant operator, subject to the following conditions:

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through February shall continue to so qualify in each of the following months of March through August unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request. A plant withdrawn from pool supply plant status may not be reinstated for any subsequent month of the March through July period unless it qualifies as a pool plant on the basis of milk shipments;

(2) A pool plant operator may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1135.13(c);

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

(4) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (f) of this section unless it has been a pool supply plant during each of the immediately preceding 3 months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 1135.8 Nonpool plant.**

See § 1000.8.

**§ 1000.8 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) A plant fully regulated under another Federal order means a plant that is fully subject to the pricing and pooling provisions of another Federal order.

(b) Producer-handler plant means a plant operated by a producer-handler as defined under any Federal order.

(c) Partially regulated distributing plant means a nonpool plant that is not a plant fully regulated under another Federal order, a producer-handler plant, or an exempt plant, from which there is route disposition in the marketing area during the month.

(d) Unregulated supply plant means a supply plant that does not qualify as a pool supply plant and is not a plant fully regulated under another Federal order, a producer-handler plant, or an exempt plant.

(e) An exempt plant means a plant described in this paragraph that is exempt from the pricing and pooling provisions of any order provided that the operator of the plant files reports as prescribed by the market administrator of any marketing area in which the plant distributes packaged fluid milk products to enable determination of the handler's exempt status:

(1) A plant that is operated by a governmental agency that has no route disposition in commercial channels;

(2) A plant that is operated by a duly accredited college or university disposing of fluid milk products only through the operation of its own facilities with no route disposition in commercial channels;

(3) A plant from which the total route disposition is for individuals or institutions for charitable purposes without remuneration; or

(4) A plant that has route disposition and packaged sales of fluid milk products to other plants of 150,000 pounds or less during the month.

### **§ 1135.9 Handler.**

In addition to the handlers defined in § 1000.9, handler shall include a person meeting the standards set forth in § 1135.11.

### **§ 1000.9 Handler.**

Handler means:

- (a) Any person who operates a pool plant or a nonpool plant.
- (b) Any person who receives packaged fluid milk products from a plant for resale and distribution to retail or wholesale outlets, any person who as a broker negotiates a purchase or sale of fluid milk products or fluid cream products from or to any pool or nonpool plant, and any person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant. Persons who qualify as handlers only under this paragraph under any Federal milk order are not subject to the payment provisions of §§ ----.70, ----.71, ----.72, ----.73, ----.76, and ----.85 of that order.
- (c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer and delivers to pool plants or diverts to nonpool plants pursuant to § ----.13 of the order. The operator of a pool plant receiving milk from a cooperative association may be the handler for such milk if both parties notify the market administrator of this agreement prior to the time that the milk is delivered to the pool plant and the plant operator purchases the milk on the basis of farm bulk tank weights and samples.

### **§ 1135.10 Producer-handler.**

Producer-handler means a person who:

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

### **§ 1135.11 Proprietary bulk tank handler.**

Any person, except a cooperative association, with respect to milk that it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such person and which is delivered during the month for the account of such person to the pool plant of another handler or diverted pursuant to § 1135.13, subject to the following conditions:

- (a) Such person must operate a plant located in the marketing area at which milk is processed only into Class II, Class III, or Class IV products; and
- (b) Prior to operating as a handler pursuant to this paragraph, such person must submit to the marker administrator a statement signed by the applicant and the operator of the pool plant to which the milk will be delivered specifying that the applicant will be the responsible handler for the milk.

### **§ 1135.12 Producer.**

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

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1135.13; or

(2) Received by a handler described in § 1000.9(c) or § 1135.11.

(b) Producer shall not include:

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

(2) A dairy farmer whose milk is delivered to an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1135.13(d);

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

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

(5) A dairy farmer whose milk was received at a nonpool plant during the month from the same farm (except a nonpool plant that has no utilization of milk products in any Class other than Class III or Class IV) as other than producer milk under this or any other Federal order. Such a dairy farmer shall be known as a dairy farmer for other markets.

### **§ 1135.13 Producer milk.**

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

(a) Received by the operator of a pool plant directly from a producer, a handler described in § 1000.9(c), or a handler described in § 1135.11. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) or in § 1135.11 in excess of the quantity delivered to pool plants;

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

(d) Diverted by the operator of a pool plant, a cooperative association described in § 1000.9(c), or a proprietary bulk tank handler described in § 1135.11, to a nonpool plant, subject to the following conditions:

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

(2) Of the quantity of producer milk received during the month (including diversions) the handler diverts to nonpool plants not more than 90 percent;

(3) Two or more handlers described in § 1000.9(c) may have their allowable diversions computed on the basis of their combined deliveries of producer milk which they caused to be delivered to pool plants or diverted during the month if each has filed a request in writing with the market administrator before the first day of the month the agreement is to be effective. The request shall specify the basis for assigning overdiverted milk to the producer deliveries of each according to a method approved by the market administrator.

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

(5) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. If the diverting handler, cooperative association, or proprietary bulk tank handler fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler, cooperative association, or proprietary bulk tank handler during the month to a nonpool plant shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by such producer as producer milk during the month will not be subject to § 1135.12(b)(5); and

(6) The delivery day requirement in paragraph (d)(1) and the diversion percentage in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to

revise the delivery day requirement or the diversion percentage must be issued in writing at least one day before the effective date.

**§ 1135.14 Other source milk.**

See § 1000.14.

**§ 1000.14 Other source milk.**

Other source milk means all skim milk and butterfat contained in or represented by:

- (a) Receipts of fluid milk products and bulk fluid cream products from any source other than producers, handlers described in § 1000.9(c) and § 1135.11, or pool plants;
- (b) Products (other than fluid milk products, fluid cream products, and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and
- (c) Receipts of any milk product (other than a fluid milk product or a fluid cream product) for which the handler fails to establish a disposition.

**§ 1135.15 Fluid milk product.**

See § 1000.15.

**§ 1000.15 Fluid milk product.**

- (a) Except as provided in paragraph (b) of this section, fluid milk product means any milk products in fluid or frozen form containing less than 9 percent butterfat that are intended to be used as beverages. Such products include, but are not limited to: Milk, fat-free milk, lowfat milk, light milk, reduced fat milk, milk drinks, eggnog and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated, or reconstituted. As used in this Part, the term concentrated milk means milk that contains not less than 25.5 percent, and not more than 50 percent, total milk solids.
- (b) The term fluid milk product shall not include:
  - (1) Plain or sweetened evaporated milk/skim milk, sweetened condensed milk/skim milk, formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically-sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and
  - (2) The quantity of skim milk equivalent in any modified product specified in paragraph (a) of this section that is greater than an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1135.16 Fluid cream product.**

See § 1000.16.

**§ 1000.16 Fluid cream product.**

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1135.17 [Reserved]**

**§ 1135.18 Cooperative association.**

See § 1000.18.

**§ 1000.18 Cooperative association.**

Cooperative association means any cooperative marketing association of producers which the Secretary determines is qualified under the provisions of the Capper-Volstead Act, has full authority in the sale of milk of its members, and is engaged in marketing milk or milk products for its members. A federation of 2 or more cooperatives incorporated under the laws of any state will be considered a cooperative association under any Federal milk order if all member cooperatives meet the requirements of this section.

**§ 1135.19 Commercial food processing establishment.**

See § 1000.19.

**§ 1000.19 Commercial food processing establishment.**

Commercial food processing establishment means any facility, other than a milk plant, to which fluid milk products and fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no other disposition of fluid milk products other than those received in consumer-type packages (1 gallon or less). Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including, but not limited to, §§ ----.13 and ----.52 of each Federal milk order.

RULES OF PRACTICE AND PROCEDURE GOVERNING MARKET  
ADMINISTRATORS

**§ 1000.25 Market administrator.**

(a) Designation. The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.

(b) Powers. The market administrator shall have the following powers with respect to each order under his/her administration:

(1) Administer the order in accordance with its terms and provisions;

(2) Maintain and invest funds outside of the United States Department of the Treasury for the purpose of administering the order;

- (3) Make rules and regulations to effectuate the terms and provisions of the order;
- (4) Receive, investigate, and report complaints of violations to the Secretary; and
- (5) Recommend amendments to the Secretary.

(c) Duties. The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his/her administration, including, but not limited to, the following:

- (1) Employ and fix the compensation of persons necessary to enable him/her to exercise the powers and perform the duties of the office;
- (2) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of the office and in the performance of the duties of the office, including the market administrator's compensation;
- (3) Keep records which will clearly reflect the transactions provided for in the order and upon request by the Secretary, surrender the records to a successor or such other person as the Secretary may designate;
- (4) Furnish information and reports requested by the Secretary and submit office records for examination by the Secretary;
- (5) Announce publicly at his/her discretion, unless otherwise directed by the Secretary, by such means as he/she deems appropriate, the name of any handler who, after the date upon which the handler is required to perform such act, has not:
  - (i) Made reports required by the order;
  - (ii) Made payments required by the order; or
  - (iii) Made available records and facilities as required pursuant to § 1000.27;
- (6) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities, and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect;
- (7) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(8) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

## RULES GOVERNING ORDER PROVISIONS

### **§ 1000.26 Continuity and separability of provisions.**

(a) Effective time. The provisions of the order or any amendment to the order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) Suspension or termination. The Secretary shall suspend or terminate any or all of the provisions of the order whenever he/she finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) Continuing obligations. If upon the suspension or termination of any or all of the provisions of the order there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) Liquidation.

(1) Upon the suspension or termination of any or all provisions of the order the market administrator, or such other liquidating agent designated by the Secretary, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his/her possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets 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 liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) Separability of provisions. If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

## RULES OF PRACTICE AND PROCEDURE GOVERNING HANDLERS

### **§ 1000.27 Handler responsibility for records and facilities.**

Each handler shall maintain and retain records of its operations and make such records and its facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any skim milk and butterfat required to be reported by such handler for which adequate records are not available shall be considered as used in the highest-priced class.

(a) Records to be maintained.

(1) Each handler shall maintain records of its operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers, and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) Availability of records and facilities. Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary, or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his/her duties.

(c) Retention of records. All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified 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 records, or specified records, until further written notification from the market administrator. 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.

#### **§ 1000.28 Termination of obligations.**

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written 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) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or such cooperative association, 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 the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order 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.

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR 900.50 through 900.71) within the applicable 2-year period indicated below, the obligation of the market administrator:

(1) To pay a handler any money which such handler claims is due under the terms of the order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

## HANDLER REPORTS

### **§ 1135.30 Reports of receipts and utilization.**

Each handler shall report monthly so that the market administrator receives the report on or before the 7<sup>th</sup> day after the end of each month, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler that operates a pool plant pursuant to § 1135.7 shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, and pounds of solids-not-fat other than protein (other solids), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c) and § 1135.11; and

- (ii) Receipts of milk from handlers described in § 1000.9(c) and § 1135.11;
- (2) Product pounds and pounds of butterfat contained in:
  - (i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;
  - (ii) Receipts of other source milk; and
  - (iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;
- (3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and
- (4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and other nonfat solids, as the market administrator may prescribe.
- (b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.
- (c) Each handler described in §§ 1000.9(c) or 1135.11 shall report:
  - (1) The product pounds, pounds of butterfat, pounds of protein, and the pounds of solids-not-fat other than protein (other solids) contained in receipts of milk from producers; and
  - (2) The utilization or disposition of such receipts.
- (d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

### **§ 1135.31 Payroll reports.**

- (a) On or before the 21<sup>st</sup> day after the end of each month, each handler that operates a pool plant pursuant to § 1135.7 and each handler described in § 1000.9(c) and in § 1135.11 shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1135.73(e).
- (b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1135.32 Other reports.**

In addition to the reports required pursuant to §§ 1135.30 and 1135.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1135.40 Classes of utilization.**

See § 1000.40.

**§ 1000.40 Classes of Utilization.**

Except as provided in § 1000.42, all skim milk and butterfat required to be reported pursuant to § ----.30 of each Federal milk order shall be classified as follows:

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

(1) Disposed of in the form of fluid milk products, except as otherwise provided in this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) In shrinkage assigned pursuant to § 1000.43(b).

(b) Class II milk shall be all skim milk and butterfat:

(1) In fluid milk products in containers larger than 1 gallon and fluid cream products disposed of or diverted to a commercial food processing establishment if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(2) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in half-gallon containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream, sour half-and-half, sour cream mixtures containing nonmilk items, yogurt, and any other semi-solid product resembling a Class II product;

iv) Custards, puddings, pancake mixes, coatings, batter, and similar products;

(v) Buttermilk biscuit mixes and other buttermilk for baking that contain food starch in excess of 2% of the total solids, provided that the product is labeled to indicate the food starch content;

(vi) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically-sealed containers;

(vii) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products;

(viii) A fluid cream product or any product containing artificial fat or fat substitutes that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section; and

(ix) Any product not otherwise specified in this section; and

(3) In shrinkage assigned pursuant to § 1000.43(b).

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

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheese of types that may be shredded, grated, or crumbled;

(ii) Plastic cream, anhydrous milkfat, and butteroil; and

(iii) Evaporated or sweetened condensed milk in a consumer-type package; and

(2) In shrinkage assigned pursuant to § 1000.43(b).

(d) Class IV milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Butter; and

(ii) Any milk product in dried form;

(2) In inventory at the end of the month of fluid milk products and fluid cream products in bulk form;

(3) In the skim milk equivalent of nonfat milk solids used to modify a fluid milk product that has not been accounted for in Class I; and

(4) In shrinkage assigned pursuant to § 1000.43(b).

(e) Other uses. Other uses include skim milk and butterfat used in any product described in this section that is dumped, used for animal feed, destroyed, or lost by a handler in a vehicular accident, flood, fire, or similar occurrence beyond the handler's control. Such uses of skim milk and butterfat shall be assigned to the lowest priced class for the month to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator.

**§ 1135.41 [Reserved]**

**§ 1135.42 Classification of transfers and diversions.**

See § 1000.42.

**§ 1000.42 Classification of transfers and diversions.**

(a) Transfers and diversions to pool plants. Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant or a handler described in § 1135.11 to another pool plant shall be classified as Class I milk unless the handlers both request the same classification in another class. In either case, the classification shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the receiving plant after the computations pursuant to § 1000.44(a)(9) and the corresponding step of § 1000.44(b);

(2) If the transferring plant received during the month other source milk to be allocated pursuant to § 1000.44(a)(3) or the corresponding step of § 1000.44(b), the skim milk or 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 transferring handler received during the month other source milk to be allocated pursuant to § 1000.44(a)(8) or (9) or the corresponding steps of § 1000.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the receiving plant.

(b) Transfers and diversions to a plant regulated under another Federal order. Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to a plant regulated under another Federal order shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from a plant regulated under another Federal order of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1) or (2) of this section:

(1) As Class I milk, if transferred as packaged fluid milk products;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated under the other order:

(i) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as other than Class I to the extent that such utilization is available for such classification pursuant to the allocation provisions of the other order;

(ii) If diverted, the diverting handler must request a classification other than Class I. If the plant receiving the diverted milk does not have sufficient utilization available for the requested classification and some of the diverted milk is consequently assigned to Class I use, the diverting

handler shall be given the option of designating the entire load of diverted milk as producer milk at the plant physically receiving the milk. Alternatively, if the diverting handler so chooses, it may designate which dairy farmers whose milk was diverted during the month will be designated as producers under the order physically receiving the milk. If the diverting handler declines to accept either of these options, the market administrator will prorate the portion of diverted milk in excess of Class II, III, and IV use among all the dairy farmers whose milk was received from the diverting handler on the last day of the month, then the second-to-last day, and continuing in that fashion until the excess diverted milk has been assigned as producer milk under the receiving order; and

(iii) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be Class I, subject to adjustment when such information is available.

(c) Transfers and diversions to producer-handlers and to exempt plants. Skim milk or butterfat that is transferred or diverted from a pool plant to a producer-handler under any Federal order or to an exempt plant shall be classified:

(1) As Class I milk if transferred or diverted to a producer-handler;

(2) As Class I milk if transferred to an exempt plant in the form of a packaged fluid milk product; and

(3) In accordance with the utilization assigned to it by the market administrator if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product to an exempt plant. For this purpose, the receiving handler's utilization of skim milk and butterfat in each class, in series beginning with Class IV, shall be assigned to the extent possible to its receipts of skim milk and butterfat, in bulk fluid cream products, and bulk fluid milk products, respectively, pro rata to each source.

(d) Transfers and diversions to other nonpool plants. Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not a plant regulated under another order, an exempt plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization, excluding the milk equivalent of both nonfat milk solids and concentrated milk used in the plant during the month, to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(A) The transferring handler or diverting handler claims such classification in such handler's report of receipts and utilization filed pursuant to § ----.30 of each Federal milk order for the month within which such transaction occurred; and

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

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from plants regulated under other Federal orders;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from plants regulated under other Federal orders;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and plants regulated under other Federal orders;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant regulated under any Federal order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the receiving plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from plants regulated under other Federal orders;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and plants regulated under other Federal orders shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization and then to all other utilization, in sequence beginning with Class IV at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and plants regulated under other Federal orders shall be assigned, pro rata among such plants, to the extent

possible to any remaining utilization, in sequence beginning with Class IV at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

**§ 1135.43 General classification rules.**

See § 1000.43.

**§ 1000.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1000.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § ----.30 of each Federal milk order and shall compute separately for each pool plant, for each handler described in § 1000.9(c) and § 1135.11, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1000.40 and 1000.42, and paragraph (b) of this section.

(b) Shrinkage and Overage. For purposes of classifying all milk reported by a handler pursuant to § ----.30 of each Federal milk order the market administrator shall determine the shrinkage or overage of skim milk and butterfat for each pool plant and each handler described in § 1000.9(c) and § 1135.11 by subtracting total utilization from total receipts. Any positive difference shall be shrinkage, and any negative difference shall be overage.

(1) Shrinkage incurred by pool plants qualified pursuant to § ----.7 of any Federal milk order shall be assigned to the lowest-priced class to the extent that such shrinkage does not exceed:

(i) Two percent of the total quantity of milk physically received at the plant directly from producers' farms on the basis of farm weights and tests;

(ii) Plus 1.5 percent of the quantity of bulk milk physically received on a basis other than farm weights and tests, excluding concentrated milk received by agreement for other than Class I use;

(iii) Plus .5 percent of the quantity of milk diverted by the plant operator to another plant on a basis other than farm weights and tests; and

(iv) Minus 1.5 percent of the quantity of bulk milk transferred to other plants, excluding concentrated milk transferred by agreement for other than Class I use.

(2) A handler described in § 1000.9(c) or § 1135.11 that delivers milk to plants on a basis other than farm weights and tests shall receive a lowest-priced-class shrinkage allowance of .5 percent of the total quantity of such milk picked up at producers' farms.

(3) Shrinkage in excess of the amounts provided in paragraphs (b)(1) and (2) of this section shall be assigned to existing utilization in series starting with Class I. The shrinkage assigned pursuant

to this paragraph shall be added to the handler's reported utilization and the result shall be known as the gross utilization in each class.

(c) 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 the handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1000.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1000.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

**§ 1135.44 Classification of producer milk.**

See § 1000.44.

**§ 1000.44 Classification of producer milk.**

For each month the market administrator shall determine for each handler described in § 1000.9(a) for each pool plant of the handler separately and for each handler described in § 1000.9(c) and § 1135.11 the classification of producer milk by allocating the handler's receipts of skim milk and butterfat to the handler's gross utilization of such receipts pursuant to § 1000.43(b)(3) as follows:

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

(1) Subtract from the pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal order in the immediately preceding month;

(iii) Fluid milk products received in packaged form from plants regulated under other Federal orders; and

(iv) To the extent that the receipts described in paragraphs (a)(1)(i) through (iii) of this section exceed the gross Class I utilization of skim milk, the excess receipts shall be subtracted pursuant to paragraph (a)(3)(vi) of this section.

(2) Subtract from the pounds of skim milk in Class II the pounds of skim milk in the receipts of skim milk in bulk concentrated fluid milk products and in other source milk (except other source

milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product in Class II (excluding the quantity of such skim milk that was classified as Class IV milk pursuant to § 1000.40(d)(3)). To the extent that the receipts described in this paragraph exceed the gross Class II utilization of skim milk, the excess receipts shall be subtracted pursuant to paragraph (a)(3)(vi) of this section.

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class IV, the pounds of skim milk in:

(i) Receipts of bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product);

(ii) Receipts of fluid milk products and bulk fluid cream products for which appropriate health approval is not established and from unidentified sources;

(iii) Receipts of fluid milk products and bulk fluid cream products from an exempt plant;

(iv) Fluid milk products and bulk fluid cream products received from a producer-handler as defined under this order or any other Federal order;

(v) Receipts of fluid milk products from dairy farmers for other markets; and

(vi) The excess receipts specified in paragraphs (a)(1)(iv) and (a)(2) of this section.

(4) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, the receipts of fluid milk products from an unregulated supply plant that were not previously subtracted in this section for which the handler requests classification other than Class I, but not in excess of the pounds of skim milk remaining in these other classes combined.

(5) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, receipts of fluid milk products from an unregulated supply plant that were not subtracted in previous paragraphs, and which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(5)(i) and (ii) of this section;

(i) Multiply by 1.25 the pounds of skim milk remaining in Class I at this allocation step; and

(ii) Subtract from the above result the pounds of skim milk in receipts of producer milk and fluid milk products from other pool plants.

(6) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, the pounds of skim milk in receipts of bulk fluid milk products from a handler regulated under another Federal order that are in excess of bulk fluid milk products transferred or diverted to such handler, if other than Class I classification is requested, but not in excess of the pounds of skim milk remaining in these classes combined.

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class IV, the pounds of skim milk in fluid milk products and bulk fluid cream products in inventory at the beginning of the month that were not previously subtracted in this section.

(8) Subtract from the pounds of skim milk remaining in each class at the plant receipts of skim milk in fluid milk products from an unregulated supply plant that were not previously subtracted in this section and that were not offset by transfers or diversions of fluid milk products to the unregulated supply plant from which fluid milk products to be allocated at this step were received. Such subtraction shall be pro rata to the pounds of skim milk in Class I and in Classes II, III, and IV combined, with the quantity prorated to Classes II, III, and IV combined being subtracted in sequence beginning with Class IV.

(9) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from a handler regulated under another Federal order that are in excess of bulk fluid milk products transferred or diverted to such handler that were not subtracted in paragraph (a)(6) of this section. Such subtraction shall be pro rata to the pounds of skim milk in Class I and in Classes II, III, and IV combined, with the quantity prorated to Classes II, III, and IV combined being subtracted in sequence beginning with Class IV, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(i) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1000.45(a); or

(ii) The total pounds of skim milk remaining in each class at this allocation step.

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant and from a handler described in § 1135.11 according to the classification of such products pursuant to § 1000.42(a).

(11) If the total pounds of skim milk remaining in all 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 IV.

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

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraphs (a) and (b) of this section.

**§ 1135.45 Market administrator's reports and announcements concerning classification.**  
See § 1000.45.

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

(a) Whenever required for the purpose of allocating receipts from plants regulated under other Federal orders pursuant to § 1000.44(a)(9) and the corresponding step of § 1000.44(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in Class I during the month of skim milk and butterfat, respectively, in producer milk of all handlers. The estimate shall be based upon the most current available data and shall be final for such purpose.

(b) The market administrator shall report to the market administrators of other Federal orders as soon as possible after the handlers' reports of receipts and utilization are received, the class to which receipts from plants regulated under other Federal orders are allocated pursuant to §§ 1000.43(d) and 1000.44 (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter any change in allocation required to correct errors disclosed on the verification of such report.

(c) The market administrator shall furnish each handler operating a pool plant and each handler described in § 1135.11 who has shipped fluid milk products or bulk fluid cream products to a plant fully regulated under another Federal order the class to which the shipments were allocated by the market administrator of the other Federal order on the basis of the report by the receiving handler and, as necessary, any changes in the allocation arising from the verification of such report.

(d) The market administrator shall report to each cooperative association which so requests, the percentage of producer milk delivered by members of the association that was used in each class by each handler receiving the 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 the handler.

#### CLASS PRICES

##### **§ 1135.50 Class prices, component prices, and advanced pricing factors.**

See § 1000.50.

##### **§ 1000.50 Class prices, component prices, and advanced pricing factors.**

Class prices per hundredweight of milk containing 3.5 percent butterfat, component prices, and advanced pricing factors shall be as follows. The prices and pricing factors described in paragraphs (a), (b), (c), (e), (f), and (q) of this section shall be based on a weighted average of the most recent 2 weekly prices announced by the National Agricultural Statistical Service (NASS) before the 24<sup>th</sup> day of the month. These prices shall be announced on or before the 23<sup>rd</sup> day of the month and shall apply to milk received during the following month. The prices described in paragraphs (g)-(p) of this section shall be based on a weighted average for the preceding month of weekly prices announced by NASS on or before the 5<sup>th</sup> day of the month and shall apply to milk received during the preceding month. The price described in paragraph (d) of this section shall be derived from the Class II skim milk price announced on or before the 23<sup>rd</sup> day of the month preceding the month to which it applies and the butterfat price announced on or before the 5<sup>th</sup> day of the month following the month to which it applies.

(a) Class I price. The Class I price per hundredweight, rounded to the nearest cent, shall be 0.965 times the Class I skim milk price plus 3.5 times the Class I butterfat price.

(b) Class I skim milk price. The Class I skim milk price per hundredweight shall be the adjusted Class I differential specified in § 1000.52 plus the higher of the advanced pricing factors computed in paragraph (q)(1) or (2) of this section.

(c) Class I butterfat price. The Class I butterfat price per pound shall be the adjusted Class I differential specified in § 1000.52 divided by 100, plus the advanced butterfat price computed in paragraph (q)(3) of this section.

(d) The Class II price per hundredweight, rounded to the nearest cent, shall be .965 times the Class II skim milk price plus 3.5 times the Class II butterfat price.

(e) Class II skim milk price. The Class II skim milk price per hundredweight shall be the advanced Class IV skim milk price computed in paragraph (q)(2) of this section plus 70 cents.

(f) Class II nonfat solids price. The Class II nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the Class II skim milk price divided by 9.

(g) Class II butterfat price. The Class II butterfat price per pound shall be the butterfat price plus \$0.007.

(h) Class III price. The Class III price per hundredweight, rounded to the nearest cent, shall be 0.965 times the Class III skim milk price plus 3.5 times the butterfat price.

(i) Class III skim milk price. The Class III skim milk price per hundredweight, rounded to the nearest cent, shall be the protein price per pound times 3.1 plus the other solids price per pound times 5.9.

(j) Class IV price. The Class IV price per hundredweight, rounded to the nearest cent, shall be 0.965 times the Class IV skim milk price plus 3.5 times the butterfat price.

(k) Class IV skim milk price. The Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be the nonfat solids price per pound times 9.

(1) Butterfat Price. The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average NASS AA Butter survey price reported by the Department for the month less 11.5 cents, with the result multiplied by 1.20.

(m) Nonfat solids price. The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average NASS nonfat dry milk survey price reported by the Department for the month less 14 cents and multiplying the result by 0.99.

(n) Protein price. The protein price per pound, rounded to the nearest one-hundredth cent, shall be computed as follows:

(1) Compute a weighted average of the amounts described in paragraphs (n)(1)(i) and (ii) of this section:

(i) The U.S. average NASS survey price for 40-lb. block cheese reported by the Department for the month; and

(ii) The U.S. average NASS survey price for 500-pound barrel cheddar cheese (38 percent moisture) reported by the Department for the month plus 3 cents;

(2) Subtract 16.5 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.383;

(3) Add to the amount computed pursuant to paragraph (n)(2) of this section an amount computed as follows:

(i) Subtract 16.5 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.572; and

(ii) Subtract 0.9 times the butterfat price computed pursuant to paragraph (l) of this section from the amount computed pursuant to paragraph (n)(3)(i) of this section; and

(iii) Multiply the amount computed pursuant to paragraph (n)(3)(ii) of this section by 1.17.

(o) Other solids price. The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average NASS dry whey survey price reported by the Department for the month minus 15.9 cents, with the result multiplied by 1.03.

(p) Somatic cell adjustment. The somatic cell adjustment per hundredweight of milk shall be determined as follows:

(1) Multiply 0.0005 by the weighted average price computed pursuant to paragraph (n)(1) of this section and round to the 5<sup>th</sup> decimal place;

(2) Subtract the somatic cell count of the milk (reported in thousands) from 350; and

(3) Multiply the amount computed in paragraph (p)(1) of this section by the amount computed in paragraph (p)(2) of this section and round to the nearest full cent.

(q) Advanced pricing factors. For the purpose of computing the Class I skim milk price, the Class II skim milk price, the Class II nonfat solids price, and the Class I butterfat price for the following month, the following pricing factors shall be computed using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24<sup>th</sup> day of the month:

(1) An advanced Class III skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

(i) Following the procedure set forth in paragraphs (n) and (o) of this section, but using the weighted average of the NASS U.S. average weekly survey prices announced before the 24<sup>th</sup> day of the month, compute a protein price and an other solids price;

(ii) Multiply the protein price computed in paragraph (q)(1)(i) of this section by 3.1;

(iii) Multiply the other solids price per pound computed in paragraph (q)(1)(i) of this section by 5.9; and

(iv) Add the amounts computed in paragraphs (q)(1)(ii) and (iii) of this section.

(2) An advanced Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

(i) Following the procedure set forth in paragraph (m) of this section, but using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24<sup>th</sup> day of the month, compute a nonfat solids price; and

(ii) Multiply the nonfat solids price computed in paragraph (q)(2)(i) of this section by 9.

(3) An advanced butterfat price per pound, rounded to the nearest one-hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average NASS AA Butter survey prices announced before the 24<sup>th</sup> day of the month, subtracting 11.5 cents from this average, and multiplying the result by 1.20.

**§ 1135.51 Class I differential and price.**

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

**§ 1135.52 Adjusted Class I differentials.**

See § 1000.52.

**§ 1000.52 Adjusted Class I differentials.**

The Class I differential adjusted for location to be used in § 1000.50(b) and (c) shall be as follows:

COUNTY	STATE	FIPS_CODE	MODIFIED 1A DIFF
APACHE	AZ	04001	1.90
COCHISE	AZ	04003	2.10
COCONINO	AZ	04005	1.90
GILA	AZ	04007	2.10
GRAHAM	AZ	04009	2.10
GREENLEE	AZ	04011	2.10
LA PAZ	AZ	04012	2.10
MARICOPA	AZ	04013	2.35
MOHAVE	AZ	04015	1.90
NAVAJO	AZ	04017	1.90
PIMA	AZ	04019	2.35
PINAL	AZ	04021	2.35
SANTA CRUZ	AZ	04023	2.10
YAVAPAI	AZ	04025	1.90
YUMA	AZ	04027	2.10
ALAMEDA	CA	06001	1.80
ALPINE	CA	06003	1.70
AMADOR	CA	06005	1.70
BUTTE	CA	06007	1.70
CALAVERAS	CA	06009	1.70
COLUSA	CA	06011	1.70
CONTRA COSTA	CA	06013	1.80
DEL NORTE	CA	06015	1.80
EL DORADO	CA	06017	1.70
FRESNO	CA	06019	1.60
GLENN	CA	06021	1.70
HUMBOLDT	CA	06023	1.80
IMPERIAL	CA	06025	2.00
INYO	CA	06027	1.60
KERN	CA	06029	1.80
KINGS	CA	06031	1.60
LAKE	CA	06033	1.80

LASSEN	CA	06035	1.70
LOS ANGELES	CA	06037	2.10
MADERA	CA	06039	1.60
MARIN	CA	06041	1.80
MARIPOSA	CA	06043	1.70
MENDOCINO	CA	06045	1.80
MERCED	CA	06047	1.70
MODOC	CA	06049	1.70
MONO	CA	06051	1.60
MONTEREY	CA	06053	1.80
NAPA	CA	06055	1.80
NEVADA	CA	06057	1.70
ORANGE	CA	06059	2.10
PLACER	CA	06061	1.70
PLUMAS	CA	06063	1.70
RIVERSIDE	CA	06065	2.00
SACRAMENTO	CA	06067	1.70
SAN BENITO	CA	06069	1.80
SAN BERNARDINO	CA	06071	1.80
SAN DIEGO	CA	06073	2.10
SAN FRANCISCO	CA	06075	1.80
SAN JOAQUIN	CA	06077	1.70
SAN LUIS OBISPO	CA	06079	1.80
SAN MATEO	CA	06081	1.80
SANTA BARBARA	CA	06083	1.80
SANTA CLARA	CA	06085	1.80
SANTA CRUZ	CA	06087	1.80
SHASTA	CA	06089	1.70
SIERRA	CA	06091	1.70
SISKIYOU	CA	06093	1.80
SOLANO	CA	06095	1.80
SONOMA	CA	06097	1.80
STANISLAUS	CA	06099	1.70
SUTTER	CA	06101	1.70
TEHAMA	CA	06103	1.70
TRINITY	CA	06105	1.80
TULARE	CA	06107	1.60
TUOLUMNE	CA	06109	1.70
VENTURA	CA	06111	1.80
YOLO	CA	06113	1.70
YUBA	CA	06115	1.70
ADAMS	CO	08001	2.55
ALAMOSA	CO	08003	1.90
ARAPAHOE	CO	08005	2.55
ARCHULETA	CO	08007	1.90
BACA	CO	08009	2.35
BENT	CO	08011	2.35
BOULDER	CO	08013	2.45
CHAFFEE	CO	08015	1.90
CHEYENNE	CO	08017	2.35
CLEAR CREEK	CO	08019	2.45
CONEJOS	CO	08021	1.90
COSTILLA	CO	08023	1.90
CROWLEY	CO	08025	2.45
CUSTER	CO	08027	2.45
DELTA	CO	08029	2.00
DENVER	CO	08031	2.55
DOLORES	CO	08033	1.90
DOUGLAS	CO	08035	2.55

EAGLE	CO	08037	1.90
EL PASO	CO	08041	2.55
ELBERT	CO	08039	2.45
FREMONT	CO	08043	2.45
GARFIELD	CO	08045	2.00
GILPIN	CO	08047	2.45
GRAND	CO	08049	1.90
GUNNISON	CO	08051	1.90
HINSDALE	CO	08053	1.90
HUERFANO	CO	08055	2.45
JACKSON	CO	08057	1.90
JEFFERSON	CO	08059	2.55
KIOWA	CO	08061	2.35
KIT CARSON	CO	08063	2.35
LA PLATA	CO	08067	1.90
LAKE	CO	08065	1.90
LARIMER	CO	08069	2.45
LAS ANIMAS	CO	08071	2.35
LINCOLN	CO	08073	2.45
LOGAN	CO	08075	2.35
MESA	CO	08077	2.00
MINERAL	CO	08079	1.90
MOFFAT	CO	08081	1.90
MONTEZUMA	CO	08083	1.90
MONTROSE	CO	08085	2.00
MORGAN	CO	08087	2.35
OTERO	CO	08089	2.45
OURAY	CO	08091	1.90
PARK	CO	08093	2.45
PHILLIPS	CO	08095	2.35
PITKIN	CO	08097	1.90
PROWERS	CO	08099	2.35
PUEBLO	CO	08101	2.45
RIO BLANCO	CO	08103	1.90
RIO GRANDE	CO	08105	1.90
ROUTT	CO	08107	1.90
SAGUACHE	CO	08109	1.90
SAN JUAN	CO	08111	1.90
SAN MIGUEL	CO	08113	1.90
SEDGWICK	CO	08115	2.35
SUMMIT	CO	08117	1.90
TELLER	CO	08119	2.45
WASHINGTON	CO	08121	2.35
WELD	CO	08123	2.45
YUMA	CO	08125	2.35

ADA	ID	16001	1.60
ADAMS	ID	16003	1.60
BANNOCK	ID	16005	1.60
BEAR LAKE	ID	16007	1.60
BENEWAH	ID	16009	1.90
BINGHAM	ID	16011	1.60
BLAINE	ID	16013	1.60
BOISE	ID	16015	1.60
BONNER	ID	16017	1.90
BONNEVILLE	ID	16019	1.60
BOUNDARY	ID	16021	1.90
BUTTE	ID	16023	1.60
CAMAS	ID	16025	1.60
CANYON	ID	16027	1.60

CARIBOU	ID	16029	1.60
CASSIA	ID	16031	1.60
CLARK	ID	16033	1.60
CLEARWATER	ID	16035	1.60
CUSTER	ID	16037	1.60
ELMORE	ID	16039	1.60
FRANKLIN	ID	16041	1.60
FREMONT	ID	16043	1.60
GEM	ID	16045	1.60
GOODING	ID	16047	1.60
IDAHO	ID	16049	1.60
JEFFERSON	ID	16051	1.60
JEROME	ID	16053	1.60
KOOTENAI	ID	16055	1.90
LATAH	ID	16057	1.90
LEMHI	ID	16059	1.60
LEWIS	ID	16061	1.60
LINCOLN	ID	16063	1.60
MADISON	ID	16065	1.60
MINIDOKA	ID	16067	1.60
NEZ PERCE	ID	16069	1.60
ONEIDA	ID	16071	1.60
OWYHEE	ID	16073	1.60
PAYETTE	ID	16075	1.60
POWER	ID	16077	1.60
SHOSHONE	ID	16079	1.90
TETON	ID	16081	1.60
TWIN FALLS	ID	16083	1.60
VALLEY	ID	16085	1.60
WASHINGTON	ID	16087	1.60
BEAVERHEAD	MT	30001	1.60
BIG HORN	MT	30003	1.60
BLAINE	MT	30005	1.60
BROADWATER	MT	30007	1.60
CARBON	MT	30009	1.60
CARTER	MT	30011	1.65
CASCADE	MT	30013	1.60
CHOUTEAU	MT	30015	1.60
CUSTER	MT	30017	1.60
DANIELS	MT	30019	1.60
DAWSON	MT	30021	1.60
DEER LODGE	MT	30023	1.60
FALLON	MT	30025	1.65
FERGUS	MT	30027	1.60
FLATHEAD	MT	30029	1.60
GALLATIN	MT	30031	1.60
GARFIELD	MT	30033	1.60
GLACIER	MT	30035	1.60
GOLDEN VALLEY	MT	30037	1.60
GRANITE	MT	30039	1.60
HILL	MT	30041	1.60
JEFFERSON	MT	30043	1.60
JUDITH BASIN	MT	30045	1.60
LAKE	MT	30047	1.60
LEWIS AND CLARK	MT	30049	1.60
LIBERTY	MT	30051	1.60
LINCOLN	MT	30053	1.80
MADISON	MT	30057	1.60
MCCONE	MT	30055	1.60

MEAGHER	MT	30059	1.60
MINERAL	MT	30061	1.80
MISSOULA	MT	30063	1.60
MUSSELSHELL	MT	30065	1.60
PARK	MT	30067	1.60
PETROLEUM	MT	30069	1.60
PHILLIPS	MT	30071	1.60
PONDERA	MT	30073	1.60
POWDER RIVER	MT	30075	1.60
POWELL	MT	30077	1.60
PRAIRIE	MT	30079	1.60
RAVALLI	MT	30081	1.60
RICHLAND	MT	30083	1.60
ROOSEVELT	MT	30085	1.60
ROSEBUD	MT	30087	1.60
SANDERS	MT	30089	1.80
SHERIDAN	MT	30091	1.60
SILVER BOW	MT	30093	1.60
STILLWATER	MT	30095	1.60
SWEET GRASS	MT	30097	1.60
TETON	MT	30099	1.60
TOOLE	MT	30101	1.60
TREASURE	MT	30103	1.60
VALLEY	MT	30105	1.60
WHEATLAND	MT	30107	1.60
WIBAUX	MT	30109	1.60
YELLOWSTONE	MT	30111	1.60
YELLOWSTONE NATIONAL PARK	MT	30113	1.60

BERNALILLO	NM	35001	2.35
CATRON	NM	35003	2.10
CHAVES	NM	35005	2.10
CIBOLA	NM	35006	1.90
COLFAX	NM	35007	2.35
CURRY	NM	35009	2.10
DE BACA	NM	35011	2.10
DONA ANA	NM	35013	2.10
EDDY	NM	35015	2.10
GRANT	NM	35017	2.10
GUADALUPE	NM	35019	2.35
HARDING	NM	35021	2.35
HIDALGO	NM	35023	2.10
LEA	NM	35025	2.10
LINCOLN	NM	35027	2.10
LOS ALAMOS	NM	35028	2.35
LUNA	NM	35029	2.10
MCKINLEY	NM	35031	1.90
MORA	NM	35033	2.35
OTERO	NM	35035	2.10
QUAY	NM	35037	2.35
RIO ARRIBA	NM	35039	1.90
ROOSEVELT	NM	35041	2.10
SAN JUAN	NM	35045	1.90
SAN MIGUEL	NM	35047	2.35
SANDOVAL	NM	35043	2.35
SANTA FE	NM	35049	2.35
SIERRA	NM	35051	2.10
SOCORRO	NM	35053	2.10
TAOS	NM	35055	1.90
TORRANCE	NM	35057	2.35

UNION	NM	35059	2.35
VALENCIA	NM	35061	2.35
CARSON CITY	NV	32510	1.70
CHURCHILL	NV	32001	1.70
CLARK	NV	32003	2.00
DOUGLAS	NV	32005	1.70
ELKO	NV	32007	1.90
ESMERALDA	NV	32009	1.60
EUREKA	NV	32011	1.70
HUMBOLDT	NV	32013	1.70
LANDER	NV	32015	1.70
LINCOLN	NV	32017	1.60
LYON	NV	32019	1.70
MINERAL	NV	32021	1.60
NYE	NV	32023	1.60
PERSHING	NV	32027	1.70
STOREY	NV	32029	1.70
WASHOE	NV	32031	1.70
WHITE PINE	NV	32033	1.90
BAKER	OR	41001	1.60
BENTON	OR	41003	1.90
CLACKAMAS	OR	41005	1.90
CLATSOP	OR	41007	1.90
COLUMBIA	OR	41009	1.90
COOS	OR	41011	1.90
CROOK	OR	41013	1.75
CURRY	OR	41015	1.90
DESCHUTES	OR	41017	1.75
DOUGLAS	OR	41019	1.90
GILLIAM	OR	41021	1.75
GRANT	OR	41023	1.60
HARNEY	OR	41025	1.60
HOOD RIVER	OR	41027	1.90
JACKSON	OR	41029	1.90
JEFFERSON	OR	41031	1.75
JOSEPHINE	OR	41033	1.90
KLAMATH	OR	41035	1.75
LAKE	OR	41037	1.75
LANE	OR	41039	1.90
LINCOLN	OR	41041	1.90
LINN	OR	41043	1.90
MALHEUR	OR	41045	1.60
MARION	OR	41047	1.90
MORROW	OR	41049	1.75
MULTNOMAH	OR	41051	1.90
POLK	OR	41053	1.90
SHERMAN	OR	41055	1.75
TILLAMOOK	OR	41057	1.90
UMATILLA	OR	41059	1.75
UNION	OR	41061	1.60
WALLOWA	OR	41063	1.60
WASCO	OR	41065	1.75
WASHINGTON	OR	41067	1.90
WHEELER	OR	41069	1.75
YAMHILL	OR	41071	1.90
AURORA	SD	46003	1.70
BEADLE	SD	46005	1.70

BENNETT	SD	46007	1.70
BON HOMME	SD	46009	1.75
BROOKINGS	SD	46011	1.70
BROWN	SD	46013	1.70
BRULE	SD	46015	1.70
BUFFALO	SD	46017	1.70
BUTTE	SD	46019	1.65
CAMPBELL	SD	46021	1.65
CHARLES MIX	SD	46023	1.75
CLARK	SD	46025	1.70
CLAY	SD	46027	1.75
CODINGTON	SD	46029	1.70
CORSON	SD	46031	1.65
CUSTER	SD	46033	1.80
DAVISON	SD	46035	1.70
DAY	SD	46037	1.70
DEUEL	SD	46039	1.70
DEWEY	SD	46041	1.65
DOUGLAS	SD	46043	1.75
EDMUNDS	SD	46045	1.70
FALL RIVER	SD	46047	1.80
FAULK	SD	46049	1.70
GRANT	SD	46051	1.70
GREGORY	SD	46053	1.75
HAAKON	SD	46055	1.70
HAMLIN	SD	46057	1.70
HAND	SD	46059	1.70
HANSON	SD	46061	1.70
HARDING	SD	46063	1.65
HUGHES	SD	46065	1.70
HUTCHINSON	SD	46067	1.75
HYDE	SD	46069	1.70
JACKSON	SD	46071	1.70
JERAULD	SD	46073	1.70
JONES	SD	46075	1.70
KINGSBURY	SD	46077	1.70
LAKE	SD	46079	1.70
LAWRENCE	SD	46081	1.80
LINCOLN	SD	46083	1.75
LYMAN	SD	46085	1.70
MARSHALL	SD	46091	1.70
MCCOOK	SD	46087	1.70
MCPHERSON	SD	46089	1.70
MEADE	SD	46093	1.65
MELLETTE	SD	46095	1.70
MINER	SD	46097	1.70
MINNEHAHA	SD	46099	1.70
MOODY	SD	46101	1.70
PENNINGTON	SD	46103	1.80
PERKINS	SD	46105	1.65
POTTER	SD	46107	1.70
ROBERTS	SD	46109	1.70
SANBORN	SD	46111	1.70
SHANNON	SD	46113	1.80
SPINK	SD	46115	1.70
STANLEY	SD	46117	1.70
SULLY	SD	46119	1.70
TODD	SD	46121	1.70
TRIPP	SD	46123	1.70
TURNER	SD	46125	1.75

UNION	SD	46127	1.75
WALWORTH	SD	46129	1.70
YANKTON	SD	46135	1.75
ZIEBACH	SD	46137	1.65
ANDERSON	TX	48001	3.15
ANDREWS	TX	48003	2.40
ANGELINA	TX	48005	3.15
ARANSAS	TX	48007	3.65
ARCHER	TX	48009	2.80
ARMSTRONG	TX	48011	2.40
ATASCOSA	TX	48013	3.45
AUSTIN	TX	48015	3.60
BAILEY	TX	48017	2.40
BANDERA	TX	48019	3.30
BASTROP	TX	48021	3.30
BAYLOR	TX	48023	2.60
BEE	TX	48025	3.65
BELL	TX	48027	3.15
BEXAR	TX	48029	3.45
BLANCO	TX	48031	3.30
BORDEN	TX	48033	2.40
BOSQUE	TX	48035	3.15
BOWIE	TX	48037	3.00
BRAZORIA	TX	48039	3.60
BRAZOS	TX	48041	3.30
BREWSTER	TX	48043	2.40
BRISCOE	TX	48045	2.40
BROOKS	TX	48047	3.65
BROWN	TX	48049	2.80
BURLESON	TX	48051	3.30
BURNET	TX	48053	3.30
CALDWELL	TX	48055	3.45
CALHOUN	TX	48057	3.65
CALLAHAN	TX	48059	2.80
CAMERON	TX	48061	3.65
CAMP	TX	48063	3.00
CARSON	TX	48065	2.40
CASS	TX	48067	3.00
CASTRO	TX	48069	2.40
CHAMBERS	TX	48071	3.60
CHEROKEE	TX	48073	3.15
CHILDRESS	TX	48075	2.40
CLAY	TX	48077	2.80
COCHRAN	TX	48079	2.40
COKE	TX	48081	2.60
COLEMAN	TX	48083	2.80
COLLIN	TX	48085	3.00
COLLINGSWORTH	TX	48087	2.40
COLORADO	TX	48089	3.60
COMAL	TX	48091	3.45
COMANCHE	TX	48093	2.80
CONCHO	TX	48095	2.80
COOKE	TX	48097	3.00
CORYELL	TX	48099	3.15
COTTLE	TX	48101	2.40
CRANE	TX	48103	2.40
CROCKETT	TX	48105	2.60
CROSBY	TX	48107	2.40
CULBERSON	TX	48109	2.40

DALLAM	TX	48111	2.40
DALLAS	TX	48113	3.00
DAWSON	TX	48115	2.40
DE WITT	TX	48123	3.60
DEAF SMITH	TX	48117	2.40
DELTA	TX	48119	3.00
DENTON	TX	48121	3.00
DICKENS	TX	48125	2.40
DIMMIT	TX	48127	3.45
DONLEY	TX	48129	2.40
DUVAL	TX	48131	3.65
EASTLAND	TX	48133	2.80
ECTOR	TX	48135	2.40
EDWARDS	TX	48137	2.80
EL PASO	TX	48141	2.25
ELLIS	TX	48139	3.00
ERATH	TX	48143	3.00
FALLS	TX	48145	3.15
FANNIN	TX	48147	3.00
FAYETTE	TX	48149	3.60
FISHER	TX	48151	2.60
FLOYD	TX	48153	2.40
FOARD	TX	48155	2.60
FORT BEND	TX	48157	3.60
FRANKLIN	TX	48159	3.00
FREESTONE	TX	48161	3.15
FRIO	TX	48163	3.45
GAINES	TX	48165	2.40
GALVESTON	TX	48167	3.60
GARZA	TX	48169	2.40
GILLESPIE	TX	48171	3.30
GLASSCOCK	TX	48173	2.60
GOLIAD	TX	48175	3.65
GONZALES	TX	48177	3.45
GRAY	TX	48179	2.40
GRAYSON	TX	48181	3.00
GREGG	TX	48183	3.00
GRIMES	TX	48185	3.30
GUADALUPE	TX	48187	3.45
HALE	TX	48189	2.40
HALL	TX	48191	2.40
HAMILTON	TX	48193	3.15
HANSFORD	TX	48195	2.40
HARDEMAN	TX	48197	2.60
HARDIN	TX	48199	3.60
HARRIS	TX	48201	3.60
HARRISON	TX	48203	3.00
HARTLEY	TX	48205	2.40
HASKELL	TX	48207	2.60
HAYS	TX	48209	3.45
HEMPHILL	TX	48211	2.40
HENDERSON	TX	48213	3.00
HIDALGO	TX	48215	3.65
HILL	TX	48217	3.15
HOCKLEY	TX	48219	2.40
HOOD	TX	48221	3.00
HOPKINS	TX	48223	3.00
HOUSTON	TX	48225	3.15
HOWARD	TX	48227	2.40
HUDSPETH	TX	48229	2.25

HUNT	TX	48231	3.00
HUTCHINSON	TX	48233	2.40
IRION	TX	48235	2.60
JACK	TX	48237	2.80
JACKSON	TX	48239	3.60
JASPER	TX	48241	3.30
JEFF DAVIS	TX	48243	2.40
JEFFERSON	TX	48245	3.60
JIM HOGG	TX	48247	3.65
JIM WELLS	TX	48249	3.65
JOHNSON	TX	48251	3.00
JONES	TX	48253	2.60
KARNES	TX	48255	3.65
KAUFMAN	TX	48257	3.00
KENDALL	TX	48259	3.30
KENEDY	TX	48261	3.65
KENT	TX	48263	2.60
KERR	TX	48265	3.30
KIMBLE	TX	48267	2.80
KING	TX	48269	2.60
KINNEY	TX	48271	3.30
KLEBERG	TX	48273	3.65
KNOX	TX	48275	2.60
LA SALLE	TX	48283	3.45
LAMAR	TX	48277	3.00
LAMB	TX	48279	2.40
LAMPASAS	TX	48281	3.15
LAVACA	TX	48285	3.60
LEE	TX	48287	3.30
LEON	TX	48289	3.15
LIBERTY	TX	48291	3.60
LIMESTONE	TX	48293	3.15
LIPSCOMB	TX	48295	2.40
LIVE OAK	TX	48297	3.65
LLANO	TX	48299	3.30
LOVING	TX	48301	2.40
LUBBOCK	TX	48303	2.40
LYNN	TX	48305	2.40
MADISON	TX	48313	3.30
MARION	TX	48315	3.00
MARTIN	TX	48317	2.40
MASON	TX	48319	2.80
MATAGORDA	TX	48321	3.60
MAVERICK	TX	48323	3.30
MCCULLOCH	TX	48307	2.80
MCLENNAN	TX	48309	3.15
MCMULLEN	TX	48311	3.45
MEDINA	TX	48325	3.30
MENARD	TX	48327	2.80
MIDLAND	TX	48329	2.40
MILAM	TX	48331	3.30
MILLS	TX	48333	2.80
MITCHELL	TX	48335	2.60
MONTAGUE	TX	48337	2.80
MONTGOMERY	TX	48339	3.60
MOORE	TX	48341	2.40
MORRIS	TX	48343	3.00
MOTLEY	TX	48345	2.40
NACOGDOCHES	TX	48347	3.15
NAVARRO	TX	48349	3.15

NEWTON	TX	48351	3.30
NOLAN	TX	48353	2.60
NUECES	TX	48355	3.65
OCHILTREE	TX	48357	2.40
OLDHAM	TX	48359	2.40
ORANGE	TX	48361	3.60
PALO PINTO	TX	48363	2.80
PANOLA	TX	48365	3.00
PARKER	TX	48367	3.00
PARMER	TX	48369	2.40
PECOS	TX	48371	2.40
POLK	TX	48373	3.30
POTTER	TX	48375	2.40
PRESIDIO	TX	48377	2.40
RAINS	TX	48379	3.00
RANDALL	TX	48381	2.40
REAGAN	TX	48383	2.60
REAL	TX	48385	3.30
RED RIVER	TX	48387	3.00
REEVES	TX	48389	2.40
REFUGIO	TX	48391	3.65
ROBERTS	TX	48393	2.40
ROBERTSON	TX	48395	3.30
ROCKWALL	TX	48397	3.00
RUNNELS	TX	48399	2.80
RUSK	TX	48401	3.00
SABINE	TX	48403	3.15
SAN AUGUSTINE	TX	48405	3.15
SAN JACINTO	TX	48407	3.30
SAN PATRICIO	TX	48409	3.65
SAN SABA	TX	48411	2.80
SCHLEICHER	TX	48413	2.80
SCURRY	TX	48415	2.60
SHACKELFORD	TX	48417	2.80
SHELBY	TX	48419	3.15
SHERMAN	TX	48421	2.40
SMITH	TX	48423	3.00
SOMERVELL	TX	48425	3.00
STARR	TX	48427	3.65
STEPHENS	TX	48429	2.80
STERLING	TX	48431	2.60
STONEWALL	TX	48433	2.60
SUTTON	TX	48435	2.80
SWISHER	TX	48437	2.40
TARRANT	TX	48439	3.00
TAYLOR	TX	48441	2.60
TERRELL	TX	48443	2.60
TERRY	TX	48445	2.40
THROCKMORTON	TX	48447	2.80
TITUS	TX	48449	3.00
TOM GREEN	TX	48451	2.80
TRAVIS	TX	48453	3.30
TRINITY	TX	48455	3.30
TYLER	TX	48457	3.30
UPSHUR	TX	48459	3.00
UPTON	TX	48461	2.40
UVALDE	TX	48463	3.30
VAL VERDE	TX	48465	2.80
VAN ZANDT	TX	48467	3.00
VICTORIA	TX	48469	3.65

WALKER	TX	48471	3.30
WALLER	TX	48473	3.60
WARD	TX	48475	2.40
WASHINGTON	TX	48477	3.30
WEBB	TX	48479	3.45
WHARTON	TX	48481	3.60
WHEELER	TX	48483	2.40
WICHITA	TX	48485	2.80
WILBARGER	TX	48487	2.60
WILLACY	TX	48489	3.65
WILLIAMSON	TX	48491	3.30
WILSON	TX	48493	3.45
WINKLER	TX	48495	2.40
WISE	TX	48497	3.00
WOOD	TX	48499	3.00
YOAKUM	TX	48501	2.40
YOUNG	TX	48503	2.80
ZAPATA	TX	48505	3.65
ZAVALA	TX	48507	3.30

BEAVER	UT	49001	1.60
BOX ELDER	UT	49003	1.90
CACHE	UT	49005	1.90
CARBON	UT	49007	1.90
DAGGETT	UT	49009	1.90
DAVIS	UT	49011	1.90
DUCHESNE	UT	49013	1.90
EMERY	UT	49015	1.90
GARFIELD	UT	49017	1.60
GRAND	UT	49019	1.90
IRON	UT	49021	1.60
JUAB	UT	49023	1.90
KANE	UT	49025	1.60
MILLARD	UT	49027	1.90
MORGAN	UT	49029	1.90
PIUTE	UT	49031	1.60
RICH	UT	49033	1.90
SALT LAKE	UT	49035	1.90
SAN JUAN	UT	49037	1.60
SANPETE	UT	49039	1.90
SEVIER	UT	49041	1.90
SUMMIT	UT	49043	1.90
TOOELE	UT	49045	1.90
UINTAH	UT	49047	1.90
UTAH	UT	49049	1.90
WASATCH	UT	49051	1.90
WASHINGTON	UT	49053	1.60
WAYNE	UT	49055	1.60
WEBER	UT	49057	1.90

ADAMS	WA	53001	1.75
ASOTIN	WA	53003	1.75
BENTON	WA	53005	1.75
CHELAN	WA	53007	1.75
CLALLAM	WA	53009	1.90
CLARK	WA	53011	1.90
COLUMBIA	WA	53013	1.75
COWLITZ	WA	53015	1.90
DOUGLAS	WA	53017	1.75
FERRY	WA	53019	1.90

FRANKLIN	WA	53021	1.75
GARFIELD	WA	53023	1.75
GRANT	WA	53025	1.75
GRAYS HARBOR	WA	53027	1.90
ISLAND	WA	53029	1.90
JEFFERSON	WA	53031	1.90
KING	WA	53033	1.90
KITSAP	WA	53035	1.90
KITTITAS	WA	53037	1.75
KLICKITAT	WA	53039	1.75
LEWIS	WA	53041	1.90
LINCOLN	WA	53043	1.90
MASON	WA	53045	1.90
OKANOGAN	WA	53047	1.75
PACIFIC	WA	53049	1.90
PEND OREILLE	WA	53051	1.90
PIERCE	WA	53053	1.90
SAN JUAN	WA	53055	1.90
SKAGIT	WA	53057	1.90
SKAMANIA	WA	53059	1.90
SNOHOMISH	WA	53061	1.90
SPOKANE	WA	53063	1.90
STEVENS	WA	53065	1.90
THURSTON	WA	53067	1.90
WAHKIAKUM	WA	53069	1.90
WALLA WALLA	WA	53071	1.75
WHATCOM	WA	53073	1.90
WHITMAN	WA	53075	1.90
YAKIMA	WA	53077	1.75
ALBANY	WY	56001	1.90
BIG HORN	WY	56003	1.60
CAMPBELL	WY	56005	1.65
CARBON	WY	56007	1.90
CONVERSE	WY	56009	1.70
CROOK	WY	56011	1.65
FREMONT	WY	56013	1.60
GOSHEN	WY	56015	1.90
HOT SPRINGS	WY	56017	1.60
JOHNSON	WY	56019	1.65
LARAMIE	WY	56021	2.45
LINCOLN	WY	56023	1.60
NATRONA	WY	56025	1.70
NIOBRARA	WY	56027	1.70
PARK	WY	56029	1.60
PLATTE	WY	56031	1.90
SHERIDAN	WY	56033	1.60
SUBLETTE	WY	56035	1.60
SWEETWATER	WY	56037	1.90
TETON	WY	56039	1.60
UINTA	WY	56041	1.90
WASHAKIE	WY	56043	1.60
WESTON	WY	56045	1.70

**§ 1135.53 Announcement of class prices, component prices, and advanced pricing factors.**  
See § 1000.53.

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

(a) On or before the 5<sup>th</sup> day of the month, the market administrator for each Federal milk marketing order shall announce the following prices (as applicable to that order) for the preceding month:

- (1) The Class II price;
- (2) The Class II butterfat price;
- (3) The Class III price;
- (4) The Class III skim milk price;
- (5) The Class IV price;
- (6) The Class IV skim milk price;
- (7) The butterfat price;
- (8) The nonfat solids price;
- (9) The protein price;
- (10) The other solids price; and
- (11) The somatic cell adjustment rate.

(b) On or before the 23<sup>rd</sup> day of the month, the market administrator for each Federal milk marketing order shall announce the following prices and pricing factors for the following month:

- (1) The Class I price;
- (2) The Class I skim milk price;
- (3) The Class I butterfat price;
- (4) The Class II skim milk price;
- (5) The Class II nonfat solids price; and
- (6) The advanced pricing factors described in § 1000.50(q).

**§ 1135.54 Equivalent price.**

See § 1000.54.

### **§ 1000.54 Equivalent price.**

If for any reason a price or pricing constituent required for computing the prices described in § 1000.50 is not available, the market administrator shall use a price or pricing constituent determined by the Deputy Administrator, Dairy Programs, Agricultural Marketing Service, to be equivalent to the price or pricing constituent that is required.

## **PRODUCER PRICE DIFFERENTIAL**

### **§ 1135.60 Handler's value of milk.**

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants, and of each handler described in § 1000.9(c) and each handler described in § 1135.11, with respect to milk that was not received at a pool plant, by adding the amounts computed in paragraphs (a) through (h) of this section and subtracting from that total amount the value computed in paragraph (i) of this section. Unless otherwise specified, the skim milk, butterfat, and the combined pounds of skim milk and butterfat referred to in this section shall result from the steps set forth in § 1000.44(a), (b), and (c), respectively, and the nonfat components of producer milk in each class shall be based upon the proportion of such nonfat components in producer skim milk. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

#### **(a) Class I value.**

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

#### **(b) Class II value.**

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

#### **(c) Class III value.**

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

(d) Class IV value.

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

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

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

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

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

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

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

### **§ 1135.61 Computation of producer price differential.**

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1135.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1135.60 for all handlers required to file reports prescribed in § 1135.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1135.60 by the protein price, the other solids price, and the butterfat price, respectively;

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1135.75;

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

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

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1135.60(h); and

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

### **§ 1135.62 Announcement of producer prices.**

On or before the 12<sup>th</sup> day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The nonfat solids price;

(d) The other solids price;

(e) The butterfat price;

(f) [Reserved]

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

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

## **PAYMENTS FOR MILK**

### **§ 1135.70 Producer-settlement fund.**

See § 1000.70.

### **§ 1000.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which the market administrator shall deposit all payments made by handlers pursuant to §§ ----.71, ----.76, and ----.77 of each Federal milk order and out of which the market administrator shall make all payments pursuant to §§ ----.72 and ----.77 of each Federal milk order. Payments due any handler shall be offset by any payments due from that handler.

### **§ 1135.71 Payments to the producer-settlement fund.**

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

(a) The total value of milk to the handler for the month as determined pursuant to § 1135.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1135.75;

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

(3) [Reserved]

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1135.60(h) by the producer price differential as adjusted pursuant to § 1135.75 for the location of the plant from which received.

### **§ 1135.72 Payments from the producer-settlement fund.**

No later than the 15<sup>th</sup> day after the end of each month (except as provided in § 1000.90), the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1135.71(b) exceeds the amount computed pursuant to § 1135.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

### **§ 1135.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) Partial Payment. On or before the 25<sup>th</sup> day of each month (except as provided in § 1000.90) to each producer an amount not less than 1.2 times the lowest class price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of

the month, less proper deductions authorized in writing by such producer to be made from payments due pursuant to this paragraph.

(2) Final Payment. On or before the 17<sup>th</sup> day of the following month (except as provided in § 1000.90), not less than an amount computed by the sum of the following:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1135.75;

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

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

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

(v) [Reserved]

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

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

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

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

(1) Partial payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be an amount not less than 1.2 times the lowest class price for the preceding month multiplied by the hundredweight of milk.

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

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

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

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

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

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

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

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

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

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

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

(c) If a handler has not received full payment from the market administrator pursuant to § 1135.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association by not more than the amount of such underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

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

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

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

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

- (3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;
- (4) [Reserved]
- (5) The minimum rate or rates at which payment to the producer is required pursuant to this order;
- (6) The rate used in making payment if the rate is other than the applicable minimum rate;
- (7) The amount, or rate per hundredweight, or rate per pounds of component, and the nature of each deduction claimed by the handler; and
- (8) The net amount of payment to the producer or cooperative association.

**§ 1135.74 [Reserved]**

**§ 1135.75 Plant location adjustments for producer milk and nonpool milk.**

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in § 1135.51 from the Class I price at the plant's location.

The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§ 1135.73 and 1000.76.

**§ 1135.76 Payments by a handler operating a partially regulated distributing plant.**  
See § 1000.76.

**§ 1000.76 Payments by a handler operating a partially regulated distributing plant.**

On or before the 25th day after the end of the month (except as provided in § 1000.90), the operator of a partially regulated distributing plant, other than a plant that is subject to marketwide pooling of producer returns under a State government's milk classification and pricing program, shall pay to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section or, if the handler submits the information specified in §§ ----.30(b) and ----.31(b) of the order, the handler may elect to pay the amount computed pursuant to paragraph (b) of this section. A partially regulated distributing plant that is subject to marketwide pooling of producer returns under a State government's milk classification and pricing program shall pay the amount computed pursuant to paragraph (c) of this section.

(a) The payment under this paragraph shall be an amount resulting from the following computations:

(1) From the plant's route disposition in the marketing area:

(i) Subtract receipts of fluid milk products classified as Class I milk from pool plants, plants fully regulated under other Federal orders, and handlers described in § 1000.9(c) and § 1135.11, except those receipts subtracted under a similar provision of another Federal milk order;

(ii) Subtract receipts of fluid milk products from another nonpool plant that is not a plant fully regulated under another Federal order to the extent that an equivalent amount of fluid milk products disposed of to the nonpool plant by handlers fully regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order; and

(iii) Subtract the pounds of reconstituted milk made from nonfluid milk products which are disposed of as route disposition in the marketing area;

(2) For orders with multiple component pricing, compute a Class I differential price by subtracting Class III price from the current month's Class I price. Multiply the pounds remaining after the computation in paragraph (a)(1)(iii) of this section by the amount by which the Class I differential price exceeds the producer price differential, both prices to be applicable at the location of the partially regulated distributing plant except that neither the adjusted Class I differential price nor the adjusted producer price differential shall be less than zero;

(3) For orders with skim milk and butterfat pricing, multiply the remaining pounds by the amount by which the Class I price exceeds the uniform price, both prices to be applicable at the location of the partially regulated distributing plant except that neither the adjusted Class I price nor the adjusted uniform price differential shall be less than the lowest announced class price; and

(4) Unless the payment option described in paragraph (d) is selected, add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(1)(iii) of this section by any positive difference between the Class I price applicable at the location of the partially regulated distributing plant (less \$1.00 if the reconstituted milk is labeled as such) and the Class IV price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § ----.60 of the order for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

- (i) Fluid milk products and bulk fluid cream products received at the plant from a pool plant, a plant fully regulated under another Federal order, and handlers described in § 1000.9(c) and
- (ii) § 1135.11 shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or a plant fully regulated under another Federal order shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from the pool plant and plants fully regulated under other Federal orders that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are in Class I and for which a value is computed pursuant to § ----.60 of the order for the partially regulated distributing plant shall be priced at the statistical uniform price or uniform price, whichever is

applicable, of the respective order regulating the handling of milk at the receiving plant, with such statistical uniform price or uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest announced class price of the respective order); and

(iii) If the operator of the partially regulated distributing plant so requests, the handler's value of milk determined pursuant to § ----.60 of the order shall include a value of milk determined for each nonpool plant that is not a plant fully regulated under another Federal order which serves as a supply plant for the partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of section 7(c) of the order subject to the following conditions:

(A) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ ----.30(b) and ----.31(b) of the order similar reports for each such nonpool supply plant;

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

(C) The value of milk determined pursuant to § ----.60 for the unregulated supply plant shall be determined in the same manner prescribed for computing the obligation of the partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments that were made for milk that would have been producer milk had the plant been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of the nonpool supply plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another Federal order under which the plant is also a partially regulated distributing plant and, if paragraph (b)(1)(iii) of this section applies, payments made by the operator of the nonpool supply plant to the producer-settlement fund of any order.

(c) The operator of a partially regulated distributing plant that is subject to marketwide pooling of returns under a milk classification and pricing program that is imposed under the authority of a State government shall pay on or before the 25<sup>th</sup> day after the end of the month (except as provided in § 1000.90) to the market administrator for the producer-settlement fund an amount computed as follows:

After completing the computations described in paragraphs (a)(1)(i) and (ii) of this section, determine the value of the remaining pounds of fluid milk products disposed of as route disposition in the marketing area by multiplying the hundredweight of such pounds by the amount, if greater than zero, that remains after subtracting the State program's class prices applicable to such products at the plant's location from the Federal order Class I price applicable at the location of the plant.

(d) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients that are reconstituted for fluid use. Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the positive difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed and the Class IV price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

**§ 1135.77 Adjustment of accounts.**

See § 1000.77.

**§ 1000.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

**§ 1135.78 Charges on overdue accounts.**

See § 1000.78.

**§ 1000.78 Charges on overdue accounts.**

Any unpaid obligation due the market administrator, producers, or cooperative associations from a handler pursuant to the provisions of the order shall be increased 1.0 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each succeeding month until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously computed pursuant to this section. The late charges shall accrue to the administrative assessment fund. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1135.85 Assessment for order administration.**

See § 1000.85.

**§ 1000.85 Assessment for order administration.**

On or before the payment receipt date specified under § ----.71 of each Federal milk order each handler shall pay to the market administrator its pro rata share of the expense of

administration of the order at a rate specified by the market administrator that is no more than 5 cents per hundredweight with respect to:

(a) Receipts of producer milk (including the handler's own production) other than such receipts by a handler described in § 1000.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1000.9(c);

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1000.43(d) and other source milk allocated to Class I pursuant to § 1000.44(a)(3) and (8) and the corresponding steps of § 1000.44(b), except other source milk that is excluded from the computations pursuant to § ----.60(d) and (e) of Parts 1005, 1006, and 1007 or § ----.60(h) and (i) of Parts 1001, 1030, 1032, 1033, 1124, 1126, 1131, and 1135; and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1000.76(a)(1)(i) and (ii).

**§ 1135.86 Deduction for marketing services.**

See § 1000.86.

**§ 1000.86 Deduction for marketing services.**

(a) Except as provided in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of such handler's own production) pursuant to § ----.73 of each Federal milk order shall deduct an amount specified by the market administrator that is no more than 7 cents per hundredweight and shall pay the amount deducted to the market administrator not later than the payment receipt date specified under § ----.71 of each Federal milk order. The money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. The services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator.

(b) In the case of producers for whom the market administrator has determined that a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and the producers. On or before the 15th day after the end of the month (except as provided in § 1000.90), such deductions shall be paid to the cooperative association rendering the services accompanied by a statement showing the amount of any deductions and the amount of milk for which the deduction was computed for each producer. These deductions shall be made in lieu of the deduction specified in paragraph (a) of this section.

## MISCELLANEOUS PROVISIONS

### **§ 1000.90 Dates.**

If a date required for a payment contained in a Federal milk order falls on a Saturday, Sunday, or national holiday, such payment or announcement will be due on the next day that the market administrator's office is open for public business.

### **§§ 1000.91-1000.92 [Reserved]**

### **§ 1000.93 OMB control number assigned pursuant to the Paperwork Reduction Act.**

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of Title 44 U.S.C. chapter 35 and have been assigned OMB control number 0581-0032.