

§ 1049.91 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1049.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further 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: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator or such person pursuant thereto.

§ 1049.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily

incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1049.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1049.101 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

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AUTHORITY: The provisions of this Part 1050 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

SOURCE: The provisions of this Part 1050 appear at 31 F.R. 15062 and 15076, Dec. 1, 1966, unless otherwise noted.

DEFINITIONS

§ 1050.1 Act.

“Act” means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Mar-

keting Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1050.2 Secretary.

“Secretary” means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1050.3 Department.

“Department” means the U.S. Department of Agriculture.

§ 1050.4 Person.

“Person” means any individual, partnership, corporation, association, or any other business unit.

§ 1050.5 Cooperative association.

“Cooperative association” means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the “Capper-Volstead Act”; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1050.6 Central Illinois marketing area.

The “Central Illinois marketing area” hereinafter called the “marketing area” means all the territory within the following counties all of which are in the State of Illinois together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county or municipal governments located wholly or partially within such counties:

Cass.	McDonough.
Ford.	Peoria.
Fulton.	Stark.
Knox.	Tazewell.
Livingston.	Warren.
Marshall.	Woodford.
Mason.	

§ 1050.7 Producer.

“Producer” means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1050.14.

§ 1050.8 Producer-handler.

“Producer-handler” means a person who:

(a) Operates a distributing plant and processes milk from his own farm production and who distributes all or a portion of such milk in the marketing area on a route but who receives no milk from other dairy farmers or fluid milk products from nonpool plants: *Provided*, That the skim milk and butterfat disposed of in the form of fluid milk products designated as Class I milk pursuant to § 1050.41(a) does not exceed the skim milk and butterfat, respectively, in the form of milk from his own farm production, and in the form of fluid milk products from pool plants of other handlers, allowing for inventory derived from such sources; and

(b) Assumes as his personal enterprise and risk the processing and distributing of fluid milk products and the maintenance, care and management of dairy animals and other resources necessary to produce his own farm milk production.

§ 1050.9 Handler.

“Handler” means:

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

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

(c) Any cooperative association with respect to milk of its members diverted for its account from a pool plant to a nonpool plant pursuant to § 1050.14;

(d) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association. The cooperative association, prior to the 1st day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered, that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(e) Any person in his capacity as the operator of an unregulated supply plant; and

(f) A producer-handler, or any person who operates an other order plant described in § 1050.61.

§ 1050.10 Distributing plant.

“Distributing plant” means any plant at which fluid milk products are processed and packaged and from which Grade A fluid milk products are disposed of on a route(s) in the marketing area during the month.

§ 1050.11 Supply plant.

“Supply plant” means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1050.12 Pool plant.

“Pool plant” means:

(a) A distributing plant, other than that of a producer-handler or one described in § 1050.61, from which during the month:

(1) Disposition of fluid milk products in the marketing area on routes is equal to 10 percent or more of its Grade A receipts from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1050.9(d), or from which an average of not less than 7,000 pounds per day of fluid milk products is distributed on routes in the marketing area; and

(2) Total disposition of fluid milk products on routes is equal to 50 percent or more of its Grade A receipts from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1050.9(d) during the months of August through February and 40 percent during all other months;

(b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of Grade A milk from dairy farmers and from cooperative associations in their capacity as handlers pursuant to § 1050.9(d) is moved to and received at a pool plant(s) described in paragraph (a) of this section which have at least 50 percent Class I use of the total of such supply plant milk and producer milk receipts in the months of August through February and 40 percent in other months;

(c) Any supply plant which qualified pursuant to paragraph (b) of this section in each of the immediately preceding months of September through January shall be a pool plant for the months of February through August unless the operator of such plant notifies the market administrator in writing before the first day of any such month of his intention to withdraw such plant as a pool

plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in paragraph (b) of this section. For the months of February through August 1967, a supply plant may be a pool plant pursuant to this paragraph if it was a pool plant in each month from the effective date of this order through January 1967; and

(d) For purposes of determining pool plant status pursuant to this section, Grade A receipts from dairy farmers shall include all quantities of milk diverted pursuant to § 1050.14(b) (1), (2), and (3) by an operator of a pool plant.

§ 1050.13 Nonpool plant.

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

(a) “Other order plant” means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

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

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

(d) “Unregulated supply plant” means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which Grade A fluid milk products are shipped to a pool plant.

§ 1050.14 Producer milk.

“Producer milk” means all skim milk and butterfat produced by producers which is:

(a) Received during the month:

(1) At a pool plant from producers or from a cooperative association as a handler pursuant to § 1050.9(d): *Provided*, That milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling under the terms or provisions of another order issued pursuant to the Act shall not be producer milk; and

(2) By a cooperative association as a handler pursuant to § 1050.9(d) but which is not delivered to a pool plant of

another handler and constitutes shrinkage pursuant to § 1050.41(b) (7) or as Class I shrinkage; or

(b) Diverted by a handler who is the operator of a pool plant or by a cooperative association pursuant to the following conditions:

(1) Milk of a producer diverted from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted;

(2) Milk of a producer diverted from a pool plant to a nonpool plant(s) at which the handling of milk is not fully subject to the pricing and pooling provisions of another order issued pursuant to the Act on any day during the months of May and June and in any other month for not more than 8 days of production of producer milk by such producer;

(3) Milk of a producer diverted as Class II milk from a pool plant to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provision of another order issued pursuant to the Act on any day during the months of May and June and in any other month for not more than 8 days of production of producer milk by such producer: *Provided*, That the milk so diverted shall not be producer milk if, notwithstanding the provisions of this subparagraph, the milk is fully subject to the pricing and pooling provisions of the other order;

(4) For pricing purposes milk diverted pursuant to subparagraphs (2) and (3) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant from which diverted: *Provided*, That milk diverted to a plant located more than 110 miles from the City Hall of Peoria, Ill. (by the shortest highway distance as determined by the market administrator), shall be deemed to be received by the diverting handler at the location of the plant to which diverted; and

(5) For pricing purposes milk diverted pursuant to subparagraph (1) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

§ 1050.15 Other source milk.

“Other source milk” means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except:

(1) Fluid milk products received from pool plants;

(2) Producer milk; and

(3) Inventory of fluid milk products on hand at the beginning of the month;

(b) Products, other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month; and

(c) Any disappearance of nonfluid milk products in a form in which they may be converted into a Class I product and which are not otherwise accounted for under this order.

§ 1050.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, plain or flavored milk and milk drinks (unmodified or fortified), including "dietary milk products" and reconstituted milk or skim milk; concentrated milk not in hermetically sealed containers, cream (sweet or sour), and mixtures of cream and milk or skim milk, but not including the following: Aerated cream products, frozen storage cream, sour cream and sour cream mixtures not labeled Grade A, eggnog, yogurt, frozen dessert mixes, evaporated or condensed milk, and sterilized fluid milk products in hermetically sealed containers.

§ 1050.17 Route.

"Route" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product to a retail or wholesale outlet (a) other than a pool plant or a nonpool plant, or (b) a commercial food processor pursuant to § 1050.41(b) (2).

§ 1050.18 Chicago butter price.

"Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

§ 1050.19 Reload point.

"Reload point" means a location at which facilities approved by a duly constituted health authority, only for the transfer of milk from one tank truck to another and for the washing of tank

trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: *Provided*, That reloading facilities on the premises of a plant having equipment for the receiving, cooling, storing and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

MARKET ADMINISTRATOR

§ 1050.20 Designation.

The agency for the administration of this part shall be a market administrator, appointed by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by the Secretary.

§ 1050.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) Administer its terms and provisions;

(b) Receive, investigate, and report to the Secretary complaints of violations;

(c) Make such rules and regulations as are necessary to effectuate its terms and provisions; and

(d) Recommended amendments to the Secretary.

§ 1050.22 Duties.

The market administrator shall perform all the duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 45 days following the date on which he enters on duty, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this part;

(c) Obtain a bond in a reasonable amount, and with satisfactory surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay from the funds received pursuant to § 1050.87, the cost of his bond

and of the bonds of his employees, his own compensation and all other expenses, except those incurred under § 1050.88 that are necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary submit such books and records to examination by the Secretary and such other persons as the Secretary may designate;

(f) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation of this part as do not reveal confidential information:

(g) Verify all reports and payments of each handler by audit or such other investigation as may be necessary, of such handler's records and facilities and of the records and facilities of any other person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(h) Publicly announce on or before:

(1) The 6th day of each month, the minimum price for Class I milk, pursuant to § 1050.51(a), and the Class I butterfat differential, pursuant to § 1050.52(a), both for the current month; and the minimum price for Class II milk, pursuant to § 1050.51(b), and the Class II butterfat differential, pursuant to § 1050.52(b), both for the preceding month; and

(2) The 12th day after the end of each month, the uniform price, pursuant to § 1050.71, and the producer butterfat differential, pursuant to § 1050.81.

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class;

(j) The 12th day after the end of each month, report to each handler the amount and value of producer milk, amounts payable to or payable from the producer-settlement fund, and amounts due the administrative assessment and marketing service accounts;

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1050.45(a)(9) and the corresponding step of § 1050.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1050.45 pursuant to such report and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1050.30 Reports of receipts and utilization.

Not later than the 7th day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for the preceding month:

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

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

(i) Milk received directly from producers showing separately any milk of the handler's own farm production;

(ii) Milk received from a cooperative association pursuant to § 1050.9(d);

(iii) Fluid milk products received from other pool plants; and

(iv) Other source milk;

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

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

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

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

(b) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1050.9 (c) or (d):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1050.9(c);

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1050.9(d); and

(4) Such other information with respect to receipts and utilization as the market administrator may prescribe;

(c) Each handler specified in § 1050.9 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(d) Each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1050.31 Other reports.

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

§ 1050.32 Payroll reports.

(a) On or before the 20th day after the end of the month, each handler operating a pool plant for each of his pool plants and each cooperative association which is a handler pursuant to § 1050.9 (c) or (d) shall report to the market administrator his producer payroll for that

month, which shall show for each producer:

(1) His name and, if not previously reported, post office address and farm location (county) for each producer;

(2) The total pounds of milk received from such producer;

(3) The plant at which such milk was received;

(4) The days for which milk was received from such producer;

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

(6) The net amount of the handler's payment to each producer and cooperative association, together with the price paid and the amount and nature of any deduction.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments as required pursuant to § 1050.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received, the same information as required pursuant to paragraph (a) of this section.

§ 1050.33 Reports to cooperative associations.

Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 1050.80(b) shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

(a) On or before the 7th day after the end of the month (1) the total pounds of milk received from each producer together with the butterfat content of such milk, and (2) the amount or rate and nature of any deductions authorized by a cooperative association.

§ 1050.34 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data which are required to be reported pursuant to §§ 1050.30 through 1050.33 and the payments required to be made pursuant to §§ 1050.80 through 1050.88.

§ 1050.35 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act, or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1050.40 Skim milk and butterfat to be classified.

All skim milk and butterfat to be reported by each handler pursuant to § 1050.30 shall be classified each month by the market administrator pursuant to the provisions of §§ 1050.41 through 1050.46.

§ 1050.41 Classes of utilization.

Subject to the conditions set forth in §§ 1050.42 to 1050.46 the classes of utilization shall be as follows:

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

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2), (3), (4), and (6) of this section. Fluid milk products which have been fortified by the addition of nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content;

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

(3) Not accounted for as Class II.

(b) *Class II milk*. Class II shall be:

(1) All skim milk and butterfat used to produce any product other than a fluid milk product;

(2) All skim milk and butterfat disposed of in bulk to commercial food

processors and used in a food product prepared for consumption off the premises;

(3) All skim milk and butterfat authorized by the market administrator to be dumped;

(4) All skim milk and butterfat accounted for as disposed of for livestock feed;

(5) The inventories of bulk fluid milk products on hand at the end of the month;

(6) The skim milk and butterfat contained in that portion of "fortified" fluid milk products not classified as Class I pursuant to paragraph (a)(1) of this section;

(7) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1050.46(b)(1) for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1050.9 (c) and (d), not to exceed the quantities calculated pursuant to subdivisions (i) through (viii) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat from producers (including receipts by a cooperative association pursuant to § 1050.9(d)) and milk diverted in bulk tank lots pursuant to § 1050.14; plus

(ii) One and one-half percent of fluid milk products received in bulk from other pool plants; plus

(iii) One and one-half percent of milk received in bulk from cooperative associations in their capacity as handlers pursuant to § 1050.9(d) except that if the handler operating the pool plant files with the market administrator, prior to the 1st day of the month, notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of bulk transfers of milk to a pool plant of

another handler (in the case of a cooperative association selling milk to a handler on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, the percentage shall be 2 percent); less

(vii) One and one-half percent of bulk transfers of milk to nonpool plants; less

(viii) One and one-half percent of milk diverted to nonpool plants (in the case of a nonpool plant receiving the milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph the percentage shall be 2 percent); and

(8) In shrinkage of skim milk and butterfat assigned pursuant to § 1050.46 (b) (2).

§ 1050.42 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat should be classified in another class: *Provided*, That in the case of milk delivered by a cooperative association in its capacity as a handler pursuant to § 1050.9(d) such responsibility shall be that of the plant operator receiving such milk; and

(b) Any skim milk or butterfat classified in one class shall be reclassified if verification by the market administrator reveals that such classification was incorrect.

§ 1050.43 Transfers and diversions.

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

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

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1050.45(a) (9) and the corresponding step of § 1050.45 (b);

(2) If the transferor handler received during the month other source milk to

be allocated pursuant to § 1050.45(a) (4) and the corresponding step of § 1050.45 (b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1050.45(a) (8) and (9) and the corresponding steps of § 1050.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

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

(c) As Class I milk, if transferred in packaged form to a nonpool plant which is not an other order plant;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 350 miles by the shortest highway distance as determined by the market administrator from the City Hall of Peoria, Ill., except that cream so transferred may be classified as Class II if the handler claims Class II use and establishes that such cream was transferred to a nonpool plant without Grade A certification and that each container was labeled or tagged to indicate that the contents were for manufacturing use and that the shipment was so invoiced;

(e) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 350 miles, by the shortest highway distance as determined by the market administrator, from the City Hall in Peoria, Ill., unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1050.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and

butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

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

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

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

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

(f) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes

to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and the transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II;

(6) If the form in which any fluid milk product is transferred or diverted to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1050.41; and

(g) As Class II if diverted to an other order plant if the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators and sufficient Class II utilization (or comparable utilization under such other order) is available in the other order plant for such assignment after assignment of milk transferred pursuant to paragraph (f) of this section subject to the rules of allocation of the other order.

§ 1050.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1050.30(a) and (b) and compute the total pounds of skim milk and butterfat, respectively, in each class: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of

skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids. Such computations shall be as follows:

(a) If any fluid milk products to be allocated pursuant to § 1050.45(a) (8) or (9) were received at any pool plant of a handler, there will be computed for such handler the total pounds of skim milk and butterfat, respectively, in each class at all of his pool plants combined, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1050.45 and computation of obligation pursuant to § 1050.70 shall be based upon the combined utilization so computed;

(b) If no fluid milk products to be allocated pursuant to § 1050.45(a) (8) or (9) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class will be computed for each pool plant of such handler, and allocation pursuant to § 1050.45 shall be made separately for each pool plant of the handler; and

(c) There will be computed for each cooperative association reporting pursuant to § 1050.30(b) the total pounds of skim milk and butterfat, respectively, in producer milk pursuant to § 1050.14 (a) (2) and (b) (2) and (3). The amounts so determined shall be those used for computation pursuant to § 1050.45(c).

§ 1050.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1050.44, the market administrator shall determine the classification of producer milk for each handler at all his pool plants (or at each pool plant, when § 1050.44(b) applies) as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1050.41(b) (7).

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

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

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

(3) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

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

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

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal order;

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

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

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

(a) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25; and

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

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

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of bulk fluid milk products (and for the first month the order is effective the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

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

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (5) (i) and (ii) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (5) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivision (ii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1050.22(k); or

(b) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers (and of the same handler, when § 1050.44(b) applies) according to the classification assigned pursuant to § 1050.43(a); and

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

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1050.44(c) into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1050.46 Shrinkage.

The market administrator shall:

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

(b) If other source milk is received at the pool plant, shrinkage at such plant shall be prorated between:

(1) Skim milk and butterfat, respectively, in the amounts of receipts used in the computations pursuant to § 1050.41(b) (7); and

(2) Skim milk and butterfat in other source milk in bulk fluid form, exclusive of that specified in § 1050.41(b) (7).

MINIMUM PRICES

§ 1050.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than \$4.33.

[31 F.R. 15076, Dec. 1, 1966, as amended at 33 F.R. 6522, Apr. 30, 1968; 33 F.R. 20008, Dec. 31, 1968]

§ 1050.51 Class prices.

The respective minimum prices per hundredweight to be paid by each handler, f.o.b. his plant, for milk received from producers or from a cooperative association during the month shall be as follows:

(a) *Class I price.* The Class I price applicable at plants at which no location adjustment pursuant to § 1050.53 is applicable, shall be the basic formula price for the preceding month plus \$1.19 and plus an additional 20 cents; and

(b) *Class II price.* The Class II price shall be the basic formula price for the month.

[31 F.R. 15076, Dec. 1, 1966, as amended at 33 F.R. 10939, Aug. 1, 1968; 33 F.R. 20008, Dec. 31, 1968]

§ 1050.52 Butterfat differentials to handlers.

For each class of milk containing more or less than 3.5 percent butterfat, the class price calculated pursuant to § 1050.51 shall be increased or decreased, respectively, for each one-tenth of a percent of butterfat at a rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12;

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.115.

§ 1050.53 Location adjustments to handlers.

(a) For producer milk and other source milk which is classified as Class I at a pool plant located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Henderson, Warren, Knox, Stark, Marshall, Livingston, Ford, and Iroquois, the price specified in § 1050.51(a) shall be reduced 7.5 cents if such plant is 50 or more miles by the shortest highway distance, as determined by the market administrator from the City Hall in Peoria, Ill., plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant only to the extent that 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1050.9(d), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1050.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1050.60 Producer-handlers.

Sections 1050.40 through 1050.54 and 1050.61 through 1050.90 shall not apply to a producer-handler.

§ 1050.61 Plants subject to other Federal orders.

In the case of a handler in his capacity as operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except that such handler shall, with respect to his total receipts and disposition of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A distributing plant qualified pursuant to § 1050.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products is disposed of during the month from such plant as Class I route disposition in the marketing area regulated by the other order than as Class I route disposition in the Central Illinois marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this paragraph;

(b) A distributing plant qualified pursuant to § 1050.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk is disposed of during the month in the Central Illinois marketing area as Class I route disposition than as Class I route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation even though such plant has greater Class I route disposition in the marketing area of the Central Illinois order; and

(c) Any plant qualified pursuant to § 1050.12(c) for any portion of the period of February through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1050.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1050.30(c) and 1050.32(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1050.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts of such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1050.70(f) and a credit in the amount specified in § 1050.84(b) (2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1050.30(c) and 1050.32(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1050.12 (b) and (c), with agreement of the operator of

such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of:

(1) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

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

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

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

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

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 1050.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler (for each pool plant when § 1050.44(b) applies) during each month shall be a sum of money computed by the market administrator as follows:

(a) With respect to producer milk received by a pool handler (excluding milk received by diversion from another pool plant), multiply the quantity in each class as computed pursuant to § 1050.45 (c) by the applicable class prices (adjusted pursuant to §§ 1050.52 and 1050.-

53) excluding in the case of a cooperative association as a handler pursuant to § 1050.9(d), milk received by it and delivered to the pool plant of another handler;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1050.45(a)(11) and the corresponding step of § 1050.45(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.45(a)(6) and the corresponding step of § 1050.45(b);

(d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.45(a)(3) and the corresponding step of § 1050.45(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount;

(e) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1050.45(a)(4) and the corresponding step of § 1050.45(b); and

(f) Add an amount equal to the value at the Class I price, adjusted for location at the nearest nonpool plant(s) from which an equivalent volume was received with respect to skim milk and butterfat subtracted from Class I pursuant to § 1050.45(a)(8) and the corresponding step of § 1050.45(b).

§ 1050.71 Computation of the uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants at which no location adjustment pursuant to § 1050.53 is applicable as follows:

(a) Combine into one total the values computed pursuant to § 1050.70 for all handlers who filed the reports prescribed by § 1050.30 for the month and who made

the payments pursuant to §§ 1050.80 and 1050.84 for the preceding month;

(b) Add an amount equal to the sum of the location and zone differentials computed pursuant to § 1050.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1050.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

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

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1050.70(f);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

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

(h) Subtract in the case of milk delivered during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of producer milk specified in paragraph (e)(1) of this section, except that the rate of deduction for each of the months of April through August 1967 shall be 10 cents;

(i) Add in the case of milk delivered during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (h) of this section, except that in the case of money deducted pursuant to paragraph (h) of this section during 1967

one-fourth of the sum shall be added in each of the months of September, October, November, and December 1967;

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

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

[31 F.R. 15062 and 15076, Dec. 1, 1966, as amended at 32 F.R. 10835, July 25, 1967]

§ 1050.72 Notification of handlers.

On or before the 12th day after the end of each month, the market administrator shall mail to each handler at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the totals thereof;

(b) The uniform price computed pursuant to § 1050.71 and the butterfat differential computed pursuant to § 1050.81; and

(c) The amounts to be paid by such handler pursuant to §§1050.84, 1050.87, and 1050.88 and the amount due such handler pursuant to § 1050.85.

PAYMENTS

§ 1050.80 Time and method of payment for producer milk.

(a) On or before the 20th day of the following month, each handler shall make payment to each producer for milk received from such producer during such month:

(1) An amount equal to not less than the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less marketing service deductions made pursuant to §1050.88;

(ii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iii) Less proper deductions authorized in writing by such producer: *Provided*, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1050.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant

to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1050.5 or its duly authorized agent, which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing. Such handler shall, on or before the 18th day of the following month pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the amount due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the 18th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, subject to the applicable location and butterfat differentials; and

(d) On or before the 18th day of the following month, each handler, in his capacity as operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1050.9(d) shall pay such cooperative association for such milk at the uniform price adjusted by applicable butterfat and location adjustments.

§ 1050.81 Butterfat differential to producers.

In making payments for milk received from producers pursuant to § 1050.80 the uniform price shall be adjusted by adding or subtracting, respectively, for each one-tenth of 1 percent by which the average butterfat content of such milk is more or less than 3.5 percent, respectively, an amount determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined by § 1050.52, dividing by the total butterfat in pro-

ducer milk, and rounding to the nearest tenth of a cent.

§ 1050.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1050.53; and

(b) For purposes of computations pursuant to §§ 1050.84 and 1050.85 the weighted average price shall be adjusted at the rates set forth in § 1050.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1050.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," which shall function as follows: (a) All payments made by handlers pursuant to §§ 1050.62, 1050.84, and 1050.86 shall be deposited in such fund and out of which shall be made all payments pursuant to §§ 1050.85 and 1050.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler; and (b) all amounts subtracted pursuant to § 1050.71(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1050.80 in accordance with the requirements of § 1050.71(d).

§ 1050.84 Payments to the producer-settlement fund.

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

(a) The sum of the net pool obligation computed pursuant to § 1050.70 for such handler;

(b) The sum of:

(1) The value of producer milk received by such handler at the applicable uniform prices specified in § 1050.80 excluding in the case of a cooperative association as a pool handler pursuant to § 1050.9(d) the value of milk delivered to pool plants of other handlers; and

(2) The value at the weighted-average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for

which a value is computed pursuant to § 1050.70(f).

§ 1050.85 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1050.84(b) exceeds the amount computed pursuant to § 1050.84(a). The market administrator shall offset any payment due any handler against payments due from such handler.

§ 1050.86 Adjustment of accounts.

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

§ 1050.87 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1050.9(d) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1050.45(a) (4) and (8) and the corresponding steps of § 1050.45(b); and

(c) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1050.88 Marketing services.

(a) *Deduction of marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 1050.80, shall deduct 6 cents per hundredweight, or such lesser amount as the

Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 20th day after the end of such month. Such monies shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 20th day after the end of the month.

§ 1050.89 Adjustment of overdue accounts.

Any unpaid obligation of a handler pursuant to § 1050.84, § 1050.87, or § 1050.88 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

[31 F.R. 15076, Dec. 1, 1966; 31 F.R. 15631, Dec. 13, 1966]

TERMINATION OF OBLIGATIONS

§ 1050.90 Termination of obligations.

The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator, or his representative all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c(15) (A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1050.100 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1050.101.

§ 1050.101 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1050.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1050.103 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and prop-

erty then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1050.104 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1050.105 Separability of provisions.

If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.