

**PART 1005 – MILK IN THE APPALACHIAN MARKETING AREA - Effective 01/01/00 (Modified 01/31/01)**

plant from which there is monthly route disposition in the marketing area; (b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

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

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

**§ 1005.11 [Reserved]**

**§ 1005.12 Producer.**

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

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1005.13; or

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

(b) Producer shall not include:

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

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1005.13(d);

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

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

**§ 1005.13 Producer milk.**

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

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

(b) Received by a handler described in

§ 1000.9(c) in excess of the quantity delivered to pool plants;

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

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

(1) In any month of July through December, not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

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

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

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 25 percent during the months of July through November, January, and February, and 40 percent during the months of December and March through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1005.7(d)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c);

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

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

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and

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- **Distributing plants** must put **50%** of physical receipts into Class I sales, including packaged transfers.
- To pool a **plant** in the marketing area, a **cooperative association** must deliver **60%** of its producer milk to pool distributors.
- **Otherwise, supply plants** must ship **50%** of producer milk receipts, including diversions from the plant, to pool distributors.
  
- **Unit pooling** allows a Class I or II plant in the marketing area to pool upon written request if:
  - Its operator also runs a pool plant in the marketing area with an equal or higher Class I price.
  - The two plants together could qualify as a pool distributing plant.

**Producer-Handler (§1007.10) uses only own farm milk, except for fortification.**

**Exempt Plants (§1000.8) include:**

- **Government or college plants with no outside Class I sales.**
- **Plants with less than 150,000 pounds of Class I sales.**
- **Plants with 100% charitable disposition of Class I products.**

**Producer association and diversion limitations (§1007.13):**

- January through June - at least 4 days of a producer's production must be delivered to a pool plant.
- July through December - at least 10 days of a producer's production must be delivered to a pool plant.
- A plant may divert its non-member milk up to the following percentages of its physical receipts of non-member milk; and
- A cooperative association may divert milk up to the following percentages of milk it physically delivers to pool plants:
  - January through June - no more than 50%
  - July through December - no more than 33%

**Payment and Announcement Dates**

- Uniform price announced by 11<sup>th</sup> (§1007.62).
- All payment dates are now extended for weekends and holidays (§1000.90).
- Payments by handlers to producer settlement fund - received by first business day after the 11<sup>th</sup>.
- Payments to handlers from producer settlement fund - received by second business day after the 11<sup>th</sup>.

**Producer Payments (§1007.73):**

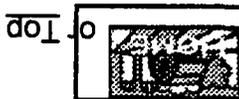
Partial payments made at 90% of the previous month's uniform price, **now adjusted for plant location** :

- Partial payment on the 26<sup>th</sup> (25<sup>th</sup> to cooperatives) for milk delivered in the first fifteen days of the month.
- Final payment on the third (the second to cooperatives) business day after the 11<sup>th</sup>.

**Administrative and Marketing Service Assessments**

- ~~3½¢~~ per hundredweight for administration, **received** by the first business day after the 11<sup>th</sup>.
- 5¢ per hundredweight of non-member milk for marketing service, **received** by the first business day after the 11<sup>th</sup>.

**Transportation credits**



- 7¢ per hundredweight assessment on Class I producer milk, **received by** the first business day after the 11<sup>th</sup>.
- 0.35¢ credit per mile after 85, minus positive difference between Class I price at receiving plant and at shipping location.

**Charges on Overdue Accounts, Including Producer Payments (\$1000.78) :**

- The late charge is 1% of the overdue balance on the day after it is due, and 1% for every month thereafter.



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