State of California
Department of Food and Agriculture
Dairy Marketing Branch

Stabilization and Marketing Plan for Market Milk, as Amended, for the

Northern California Marketing Area

Issued by the Secretary of the
California Department of Food and Agriculture Pursuant to the
Provisions of Chapter 2, Part 3, Division 21 of the
Food and Agricultural Code

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By Northern California Order Number Fifty-Four (54)

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CALIFORNIA DEPARTMENT OF
FOOD AND AGRICULTURE

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Article I - Definitions

Section 100.0. The definitions contained in Chapter 2 and Chapter 3, Part 3, Division 21 of the Food and Agricultural Code and the Pooling Plan for Market Milk, as amended, govern the construction of this Stabilization and Marketing Plan.

Section 100.1. "Act" shall be known, and may be cited, as the "Food and Agricultural Code".

Section 100.2. "Person" means any individual, firm, corporation, partnership, trust, incorporated or unincorporated association, nonprofit cooperative association, nonprofit cooperative marketing association, nonprofit corporation, or any other business unit or organization.

Section 100.3. "Secretary" means the Secretary of the California Department of Food and Agriculture or any employee of such Department duly assigned or delegated by the Secretary of the California Department of Food and Agriculture to perform the functions required pursuant to this Stabilization and Marketing Plan.

Section 100.4. "Producer" means any person that produces market milk from five or more cows in conformity with the applicable health regulations of the place in which it is sold, and whose bulk market milk is received, acquired, or handled by any handler or any nonprofit association of producers. It includes the nonprofit cooperative associations described in Article 3 (commencing with Section 61871) of Chapter 2 of the Food and Agricultural Code in the transactions in which such article provides that the associations are producers.

Section 100.5. "Producer-handler" means any person that is both a producer and a handler of market milk. For the purposes of Chapter 2, a producer-handler is a producer in any transaction involving the sale or delivery of bulk market milk which was produced by the producer-handler to a handler or to any nonprofit cooperative association of producers. A producer-handler is a handler in any transaction involving the purchase, acquisition, or receipt of market milk from any person, the pasteurization or packaging of market milk, or the sale or delivery of packaged market milk to any person.

Section 100.6. "Handler" means any person functioning in one or more of the following capacities:

(A) A person (other than a cooperative association) who operates one or more pool plants or operates any other plant from which Class 1 milk is disposed of directly or indirectly during the month in the marketing area;

(B) A duly incorporated cooperative association of producers which has authority from its individual producer members to market their milk and receive payment therefor and which operates one or more pool plants or operates any other plant from which market milk products are disposed of directly or indirectly during the month in the marketing area;

(C) A cooperative association in its capacity as the marketing agent for producer milk with respect to the milk of its member producers which it markets and receives payment therefor

under authority of contracts or agreements with its individual members, which milk is not received at a plant operated by the cooperative or diverted therefrom;

(D) A person who operates a milk plant located in the marketing area and receives market milk from one or more dairy ranches.

Section 100.7. "Call handler" means any handler as defined in Section 100.6, Paragraphs (A), (B), and (D) herein, whose total direct and derived milk solids-not-fat Class 1 usage equals or exceeds 80% of such handler's total market milk solids-not-fat received or diverted and whose direct and derived milk solids-not-fat Class 4a and 4b usage does not exceed 5% of such handler's total market milk solids-not-fat received or diverted.

The handler's milk solids-not-fat Class 1 usage percentage requirement of this Section may be increased or decreased by no more than 10 percent if the Secretary deems it necessary in order to assure that a sufficient number of bottling plants may secure an adequate supply of milk. Advance notice of an increase or decrease of such percentage requirement shall be not less than 30 days on original implementation of the milk movement provisions of Article V of this Stabilization and Marketing Plan in any year, and not less than 15 days after such provisions of Article V have been implemented in any year.

Section 100.8. "Supply handler" means any handler that does not qualify as a call handler.

Section 100.9. "Designated supply handler" means any supply handler for any month who has been designated by the Secretary as subject to call handler requests in accordance with the provisions of Section 500.2 of this plan.

Section 100.10. "Procurement region" means a prescribed area in which a Stabilization and Marketing Plan(s) is in effect.

(A) The prescribed areas shall be:

Procurement Region 1 - Southern California Marketing Area and the counties of Fresno, Kern, Kings and Tulare.

Procurement Region 2 - Northern California Marketing Area, except for the counties of Del Norte, Fresno, Humboldt, Kern, Kings and Tulare.

(B) All handlers defined in Section 100.6, Paragraph (A), (B), and (D) of this Article shall act as either supply handlers (including designated supply handlers) or call handlers in the procurement region in which their plant is located.

(C) A handler defined in Section 100.6, Paragraph (C) of this Article shall be a supply handler (and possibly a designated supply handler) for the procurement region in which such handler delivers the greatest volume of milk.

Section 100.11. "Milk", for purposes of this Plan, means the lacteal secretion from one or more cows, including the milk fat, milk solids-not-fat, and fluid carrier portions thereof, each to be computed and accounted for separately.

Section 100.12. "Market milk" means any and all whole or concentrated milk that is produced in conformity with provisions of Chapter 1, Part 1, Division 15 of the Food and Agricultural Code and other applicable health regulations for market milk of the place where such milk is consumed.

Section 100.13. "Producer's dairy location" means a point where the milk house is situated and includes a platform or other pickup point at or near the milk house where the producer has customarily placed milk to be picked up by the handler.

Section 100.14. "Refrigeration equipment" means direct expansion or brine refrigeration, compressors, coolers, or any combination of such equipment.

Section 100.15. "Standardized milk" means milk which has been brought to a uniform milk fat and/or milk solids-not-fat content different from that of such milk at the time it was produced. Standardization of milk may be accomplished by the addition or subtraction of skim milk, cream, whole milk, or any condensed form of these three.

Section 100.16. "Container" means any package in which milk is packaged for distribution to consumers.

Section 100.17. "Handlers' plant" means any building in which a handler receives, weighs, tests, standardizes or processes market milk, or manufactures such into dairy products.

Section 100.18. "Receive milk" means to convey milk physically into a milk plant where it is utilized within the plant, or stored within such milk plant and transferred to another plant for utilization.

Section 100.19. "Mandatory Class 2" or "Mandatory Class 2 product" means any Class 2 product which must be made from market milk.

Section 100.20. "Pool plant" is as defined in Section 106 of the Pooling Plan.

Section 100.21. "Nonpool plant" is as defined in Section 111 of the Pooling Plan.

Article II - Description of Boundaries of Northern California Marketing Area

Section 200.0. "Northern California Marketing Area" refers to all portions of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, Yuba Counties. All of said Area being within the State of California, or as such Area may hereafter be modified by the Secretary of Food and Agriculture.

Article III - Class Prices

Section 300.0. The minimum class prices for the milk fat and skim milk components of market milk, market cream, and market skim milk f.o.b. the pool plant or nonpool plant located within this Marketing Area where the milk was first received from producers, shall be as follows:

(A) The minimum monthly prices for components used for Class 1 shall be determined prior to the beginning of each month, using the following formulas and procedures, except as such formulas and procedures may be modified by Paragraph (H) of this Section:

(1) For all milk fat, not less than the price per pound computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, less a butter adjuster of thirteen and fifteen hundredths cents ($0.1315), and the result multiplied by a yield factor of 1.2.

(2) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Commodity Reference price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, minus twenty and three-tenths cents ($0.203), less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.76 and divided by 8.7.

(3) For all fluid carrier, not less than the price per pound computed by the formula using the Commodity Reference Price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, minus twenty and three-tenths cents ($0.203), less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.24 and divided by 87.8, and then $0.0031 per pound subtracted from the result.

(4) The Commodity Reference Price per hundredweight shall be the higher of either:

(a) The sum of the following three formulas:

(i) The price per hundredweight computed by the formula using the Cheddar cheese price determined pursuant to Subparagraph (A)(6) of this Section, multiplied by a Cheddar cheese yield factor of nine and eight-tenths (9.8).

(ii) The price per hundredweight computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, less ten cents ($0.10), all multiplied by a whey butter yield factor of twenty-seven-hundredths (0.27).

(iii) The price per hundredweight computed by the formula using the dry whey price determined pursuant to Subparagraph (A)(7) of this Section multiplied by a dry whey yield of 5.8, all less a dry whey adjuster of eighty-five cents ($0.85).

(b) The sum of the following two formulas:

(i) The price per hundredweight computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, multiplied by a butter yield factor of 1.2, and the result multiplied by 3.5.

(ii) The price per hundredweight computed by the formula using the nonfat dry milk price determined pursuant to Subparagraph (A)(8) of this Section, multiplied by a nonfat dry milk yield factor of 0.99, and the result multiplied by 8.7.

(5) The butter price used in calculations pursuant to Paragraph (A) shall be the simple average of the daily closing Grade AA butter prices at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the second previous month and concluding the 10th day of the previous month. In the event that Chicago Mercantile Exchange Grade AA butter prices are not available to calculate the butter price fifteen days prior to the effective date of the Class 1 pricing period concerned, then used in its place shall be the butter price used in the previous month's calculation.

(6) The Cheddar cheese price used in calculations pursuant to Paragraph (A) shall be the simple average of the daily closing 40 pound block Cheddar cheese prices at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the second previous month and concluding the 10th day of the previous month. In the event that Chicago Mercantile Exchange 40 pound block Cheddar prices are not available to calculate the Cheddar cheese price fifteen days prior to the effective date of the Class 1 pricing period concerned, then used in its place shall be the Cheddar cheese price used in the previous month's calculation.

(7) The dry whey prices used in calculations pursuant to Paragraph (A) shall be the two most recent weekly, simple average of the Dry Whey – West Mostly prices as published in Dairy Market News available on the 10th day of the previous month.

(8) The nonfat dry milk price used in calculations pursuant to Paragraph (A) shall be the weighted average of the two most recent weekly price reports for nonfat dry milk f.o.b. California manufacturing plants available on the 10th day of the previous month. The weekly reports are used to calculate the weighted average price per pound for all Grade A and extra grade nonfat dry milk for human consumption sold f.o.b. California manufacturing plants for the seven day period ending on Friday as reported by the California Department of Food and Agriculture.

(9) For any month in which the Secretary implements the collection of security charges provided for in Chapter 2.5, Part 3, Division 21 of the Food and Agricultural Code, the minimum Class 1 prices shall be increased by the following amounts:

(a) For milk fat, five and seven-tenths mils ($0.0057) per pound.

(b) For milk solids-not-fat, two and three-tenths mils ($0.0023) per pound.

(c) For fluid carrier, one-tenth mil ($0.0001) per pound.

(B) The minimum bimonthly prices for components used for Class 2 shall be determined at the beginning of each even month, using the following formulas and procedures, except as such formulas and procedures may be modified by Paragraph (H) of this Section:

(1) For all milk fat, not less than the Average Class 4a fat price.

(2) For all milk solids-not-fat, not less than the Average Class 4a solids-not-fat price plus four and ninety hundredths cents ($0.0490) per pound.

(3) For any month in which the Secretary implements the collection of security charges provided for in Chapter 2.5, Part 3, Division 21 of the Food and Agricultural Code, the minimum Class 2 prices shall be increased by the following amounts:

(a) For milk fat, seven and one-tenth mils ($0.0071) per pound.

(b) For milk solids-not-fat, two and nine-tenths mils ($0.0029) per pound.

(4) The time periods for the Average Class 4a fat price used in Subparagraph (B)(1) and the Average Class 4a solids-not-fat price used in Subparagraph (B)(2) of this Section shall be those in Subparagraph (B)(5) of this Section.

(5) For February-March Class 2 and 3 pricing period, the average of preceding December-January Class 4a component prices per pound.
For April-May Class 2 and 3 pricing period, the average of preceding February-March Class 4a component prices per pound.
For June-July Class 2 and 3 pricing period, average of preceding April-May Class 4a component prices per pound.
For August-September Class 2 and 3 pricing period, average of preceding June-July Class 4a component prices per pound.
For October-November Class 2 and 3 pricing period, average of preceding August-September Class 4a component prices per pound.
For December-January Class 2 and 3 pricing period, average of preceding October-November Class 4a component prices per pound.

(C) The minimum bimonthly prices for components used for Class 3 shall be determined at the beginning of each even month, using the following formulas and procedures, except as such formulas and procedures may be modified by Paragraph (H) of this Section:

(1) For all milk fat, not less than the Average Class 4a fat price.

(2) For all milk solids-not-fat, not less than the Average Class 4a solids-not-fat price plus four and thirty-three hundredths cents ($0.0433) per pound.

(3) For any month in which the Secretary implements the collection of security charges provided for in Chapter 2.5, Part 3, Division 21 of the Food and Agricultural Code, the minimum Class 3 prices shall be increased by the following amounts:

(a) For milk fat, seven and one-tenth mils ($0.0071) per pound.

(b) For milk solids-not-fat, two and nine-tenths mils ($0.0029) per pound.

(4) The time periods for the Average Class 4a fat price used in Subparagraph (C)(1) and the Average Class 4a solids-not-fat price used in Subparagraph (C)(2) of this Section shall be those in Subparagraph (B)(5) of this Section.

(D) The minimum prices to be paid for components used for Class 4a shall be computed as follows, except as such formulas and procedures may be modified by Paragraph (H) of this Section:

(1) For all milk fat, not less than the price per pound computed by the formula using the butter price, less an f.o.b. California price adjuster of three and nine hundredths cents ($0.0309), less a manufacturing cost allowance of fifteen and six tenths cents ($0.156), and the result multiplied by a yield factor of one and two–tenths (1.2).

(2) For all milk solids-not-fat, not less than the price per pound computed by the formula using the nonfat dry milk price, less a manufacturing cost allowance of sixteen and ninety-eight hundredths cents ($0.1698), multiplied by a yield factor of one (1.0).

(3) The butter prices used in calculations pursuant to this Paragraph shall be the simple average of the Grade AA butter price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.

(4) The nonfat dry milk prices used in calculations pursuant to this Paragraph shall be the weighted average price per pound for all Grade A and extra grade nonfat dry milk for human consumption sold f.o.b. California manufacturing plants for the period beginning the 26th day of the previous month and concluding the 25th day of the current month, as reported by the California Department of Food and Agriculture for the month.

(5) In the event that the Chicago Mercantile Exchange Grade AA butter price is not available to calculate the current Class 4a fat price, pursuant to Subparagraph (D)(1), then used in its place shall be the Chicago Mercantile Exchange Grade AA butter price used in the prior month's calculation of the Class 4a fat price. All other Paragraphs that use the Class 4a fat price shall operate as if the price had been established pursuant to Subparagraph (D)(1).

(6) In the event that the California weighted average nonfat dry milk price is not available to calculate the current Class 4a solids-not-fat component price, pursuant to Subparagraph (D)(2), then used in its place shall be the California weighted average nonfat dry milk price used in the prior month's calculation of the Class 4a solids-not-fat price. All other Paragraphs that use the Class 4a solids-not-fat price shall operate as if the solids-not-fat price had been established pursuant to Subparagraph (D)(2).

(E) The minimum prices to be paid for components used for Class 4b shall be computed as follows, except as such formulas and procedures may be modified by Paragraph (H) of this Section:

(1) The Cheese hundredweight price shall be the price per hundredweight computed by the sum of the following:

(a) The price per hundredweight computed by the formula using the Cheddar cheese price, less an f.o.b. California price adjuster of two and fifty-two hundredths cents ($0.0252), less a Cheddar cheese manufacturing cost allowance of nineteen and eighty-eight hundredths cents ($0.1988), all multiplied by a yield factor of ten and two–tenths (10.2).

(b) The price per hundredweight computed by the formula using the butter price, less a manufacturing cost allowance of fifteen and six tenths cents ($0.156), less ten cents ($0.10), all multiplied by a yield factor of twenty-seven-hundredths (0.27).

(c) The constant whey factor of twenty-five cents per hundredweight ($0.25).

(2) For all milk fat, not less than the price per pound computed pursuant to Subparagraph (D)(1) of this Section.

(3) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Cheese hundredweight price established pursuant to Subparagraph (E)(1) less the product of three and seventy–two hundredths (3.72) multiplied by the Class 4b fat price established pursuant to Subparagraph (E)(2), all divided by eight and eighty hundredths (8.80).

(4) The Cheddar cheese prices used in calculations pursuant this Paragraph shall be the simple average of the 40 pound block Cheddar cheese price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.

(5) The butter prices used in calculations pursuant this Paragraph shall be the simple average of the Grade AA butter price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.

(6) In the event the Chicago Mercantile Exchange 40 pound block Cheddar cheese price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the cheese price used in the prior month’s calculation of the Cheese hundredweight price.

(7) In the event that the Chicago Mercantile Exchange Grade AA butter price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the Grade AA butter price used in the prior month’s calculation of the Cheese hundredweight price.

(F) The minimum prices to be paid pursuant to Paragraph (A) of this section shall be computed by the Dairy Marketing Branch and furnished to handlers not less than ten days prior to the effective date of each price change.

(G) The minimum prices to be paid pursuant to Paragraphs (B), (C), (D), and (E) of this section will be computed by the Dairy Marketing Branch and furnished to handlers each month.

(H) The minimum prices for components used for Class 1, Class 2, Class 3, Class 4a, and Class 4b, as set forth respectively in Paragraphs (A), (B), (C), (D), and (E) of this Section, shall be increased only for the period January 1, 2010 to March 31, 2010 by the following amounts:

(1) For Class 1 milk fat, three and five-tenths mils ($0.0035) per pound.

(2) For Class 1 milk solids-not-fat, two and ninety-eight hundredths cents ($0.0298) per pound.

(3) For Class 1 milk fluid carrier, nine-tenths mils ($0.0009) per pound.

(4) For Class 2 and 3 milk fat and milk solids-not-fat, two and five hundredths cents ($0.0205) per pound.

(5) For Class 4a and 4b milk fat and milk solids-not-fat, eight and two-tenths mils ($0.0082) per pound.

Section 300.1. From the gross value of the minimum class prices [f.o.b. producer's dairy location for milk fat and skim milk components of market milk, market cream, and market skim first received direct from the producer's dairy at a pool plant or nonpool plant located within this Marketing Area as computed pursuant to Section 300.0, Paragraphs (A), (B), (C), (D), and (E)], the handler may deduct the gross transportation charge from the producer's dairy location to the first receiving plant computed from the lowest of the following:

(A) A rate not in excess of the rate charged for actual or reasonably similar services by highway carriers, as the term "highway carriers" is defined in Section 3511 of the Public Utilities Code;
(B) The actual amount paid by the handler for such transportation.

Section 300.2. Each handler located in counties designated herein as a supply county may deduct from the applicable minimum prices pursuant to Section 300.0, Paragraph (A), a transportation credit for quantities of market milk, market skim milk, and condensed skim milk shipped in bulk form to a plant located in a designated deficit county. Shipments of market cream are excluded from such transportation credits. Such deduction shall not exceed the amounts shown for such bulk transfers in the following schedule:

Designated Supply County	Maximum Deduction Per Cwt.	Designated Deficit Counties
Los Angeles County	$0.45	Orange, Riverside, San Bernardino, San Diego, or Ventura Counties
Tulare County	$0.89	Los Angeles, Orange or Ventura Counties
Tulare County	$0.97	Riverside, San Bernardino or San Diego Counties
Fresno and Kings Counties	$0.89	Los Angeles, Orange or Ventura Counties
Fresno and Kings Counties	$0.97	Riverside, San Bernardino or San Diego Counties
Sonoma County	$0.45	Alameda, San Francisco or Santa Clara Counties
Merced and Stanislaus Counties	$0.75	Alameda, San Francisco or Santa Clara Counties
Merced and Stanislaus Counties	$0.74	Solano and Sonoma Counties
Merced and Stanislaus Counties	$0.68	Sacramento

Section 300.3. Marketing Services.

(A) Each handler, who installs or maintains handler-owned refrigeration equipment or holding tanks at a producer's dairy location, may make a deduction from the amount due the producer for the services performed, provided said handler has on file a written authorization from the producer stating the amount of the deduction. This deduction may not exceed interest on investment computed at the rate of 6 percent per annum and an allowance for depreciation computed in accordance with depreciation rates established or allowed by the United States Internal Revenue Service.

(B) Each handler, using nonfat dry milk for fortifying Class 1 products during the current month, may deduct for each pound of milk solids-not-fat in such nonfat dry milk a maximum charge equal to the current Class 1 solids-not-fat price established in Section 300.0, Paragraph (A) less the current Class 4a solids-not-fat price established in Section 300.0, Subparagraph (D)(2). However, in no case shall the deduction be less than zero cents ($0.0000) nor more than nineteen and eighty-five hundredths cents ($0.1985). This deduction shall be allowed in calculating the gross pool obligation of such handler, pursuant to the provisions of the Pooling Plan.

(C) Each handler, using condensed market skim milk for fortifying Class 1 products, may deduct for each pound of milk solids-not-fat in such condensed market skim milk a maximum charge of nine and eighty-seven hundredths cents ($0.0987). This deduction shall be allowed in calculating the gross pool obligation of such handler, pursuant to the provisions of the Pooling Plan.

(D) Each handler, concentrating market milk at the plant first receiving such milk direct from the producer's dairy which concentrated milk is used in standardizing or fortifying market milk or any dairy product defined as Class 1, may deduct for each pound of solids in such market milk that is concentrated a maximum charge of nine and eighty-seven hundredths cents ($0.0987). This deduction shall be allowed in calculating the gross pool obligation of such handler, pursuant to the provisions of the Pooling Plan.

(E) In addition to the minimum prices specified, pursuant to Section 300.0, Paragraph (A), each handler, as defined in Article I, Section 100.6, Paragraph (A) or Paragraph (D), shall pay an additional amount to handlers, as defined in Article I, Section 100.6, Paragraph (B), for services performed under the stated conditions as follows:

(1) When the handler, as defined in Article I, Section 100.6, Paragraph (B), performs the function of separation of market milk sold as market cream or market skim milk to handlers and used as Class 1, a minimum of one and one-half cents ($0.015) per pound milk fat and thirty-four hundredths cents ($0.0034) per pound milk solids-not-fat shall be paid to such handler performing the separation service.

(2) When the handler, as defined in Article I, Section 100.6, Paragraph (B) performs the function of fortifying market milk with milk solids-not-fat or fortifying market skim milk with milk solids-not-fat, or fortifying and standardizing market milk sold as lowfat milk or standardizing market milk to a prescribed milk fat content, a minimum of forty-five hundredths cents ($0.0045) per pound solids shall be paid to such selling handler.

(F) In addition to the minimum prices specified pursuant to Section 300.0, Paragraphs (A) and (B), each designated supply handler may charge a call handler for services performed in a sale of bulk market milk for Class 1 use. Such additional charge for bulk milk shall not exceed:

(1) The actual rate charged under like terms and conditions for the same or similar bulk milk handling services provided to other bulk milk purchasers, or if no such rate exists,

(2) The prevailing rates charged by other supply handlers in the procurement region under like terms and conditions for the same or similar bulk milk handling services provided to other bulk milk purchasers, or if no such rates exist,

(3) A rate subject to review or approval by the Secretary.

Section 300.4. Any handler, who receives the milk fat and skim milk components of market milk, market cream, and market skim milk f.o.b. such handler's plant located within this Marketing Area and such components are distributed or sold outside the external boundaries of

the State of California, shall pay to the producers thereof not less than the minimum prices established by the Secretary for this Marketing Area.

Article IV -Usage Determination, Pooling and Handler Obligations

Section 400.0. The milk fat and skim milk components of market milk, market cream, and market skim milk received by handlers, shall be reported pursuant to Section 800 of the Pooling Plan. The utilization, classification, and assignment shall be reported pursuant to Sections 801, 802, 803, and 804 of the Pooling Plan.

Section 400.1. The gross pool obligation of each handler shall be computed for each month pursuant to Section 900 of the Pooling Plan.

Section 400.2. Each handler, defined pursuant to Section 100.6, Paragraphs (A) and (D), shall give a written report each month to each producer from whom market milk was received during the month, which report shall include the provisions pursuant to Section 1000 of the Pooling Plan and other information that the Secretary may require from time to time.

Section 400.3. Each handler, defined pursuant to Section 100.6, Paragraphs (A) and (D), shall enter into a written contract with each producer for the purchase of market milk pursuant to the provisions of Article VI of this Stabilization and Marketing Plan.

Section 400.4. All handlers shall make and file with the Secretary such other reports as the Secretary may require to enable the Secretary to enforce the provisions of Chapter 2 and Chapter 3, Part 3, Division 21 of the Food and Agricultural Code.

Article V - Milk Movement Requirements

Section 500.0. The milk movement requirements shall be in effect during the months of September, October, November, December, January, February, March and April of each year. Notwithstanding the above, the requirements of the milk movement provisions that will go into effect on September 1, 2001 and continue through April 30, 2002 shall continue on the effective date of this Stabilization and Marketing Plan, as Amended.

The Secretary shall establish and announce no later than August 1 of each year a minimum percentage of quota milk solids-not-fat that must have been used for Class 1 and mandatory Class 2 purposes by any supply handler in each procurement region before any such handler is exempted from being a "designated supply handler."

During the months in which the milk movement requirements, as specified in this section, are in effect, the minimum percentage of quota milk solids-not-fat that must have been used as Class 1 and mandatory Class 2 by a designated supply handler may be amended subject to at least a 15-day advance notice.

If the Secretary determines that said requirements are no longer necessary for the current period, the Secretary may terminate said requirements by notice. Such notice shall be announced 10 days prior to termination.

Section 500.1. In establishing the minimum percentage pursuant to Section 500.0 of this Article, the Secretary shall consider separately for each procurement region the Class 1 and mandatory Class 2 uses for the same month or months of the previous year and the most current available quota in each region.

Section 500.2. For any month that the minimum percentages established by the Secretary pursuant to this Article are effective, the Secretary shall announce the designated supply handlers who shall be required to make milk available for Class 1 uses upon request of a call handler.

In the determination of a supply handler's classification as a designated supply handler, the percentage of quota milk solids-not-fat accounted for in direct and derived Class 1 and mandatory Class 2 uses of such handler during the months of September, October, November, and December of the previous year and the months of January, February, March and April of the current year shall be used as a base. Designated supply handlers must have the ability to provide at least 5,000 gallons of milk per day upon request of a call handler.

The quantity of quota milk solids-not-fat that must be made available by a designated supply handler during any week shall be determined on a calendar week basis, reflecting a prorata percentage of such handler's current monthly quota total.

Section 500.3. For the purpose of determining the order of performance, each designated supply handler, once determined under Section 500.2 of this Article, shall be arrayed in a random order for the first week during which the milk movement requirements of this Article are in effect. For each week thereafter, the supply handler list shall be rotated sequentially. The handler who was designated as first supplier in any one week shall be rotated to the bottom of the list for the next week with all other designated handlers moving up one position on the list.

A call handler shall place requests for fluid milk in sequential order starting with the designated supply handler selected as first supplier for the week.

Section 500.4. On any original implementation of these provisions on 30 days notice as provided in Section 500.0, any handler who has been designated by the Secretary as a designated supply handler pursuant to Section 500.2 of this Article shall be eliminated as a designated supply handler if such handler can demonstrate within 25 days after being designated as a designated supply handler that since the previous year, such handler no longer qualifies as a designated supply handler.

On any change from the original implementation of these provisions on 15 days notice as provided in Section 500.0, any handler who has been designated by the Secretary as a designated supply handler pursuant to Section 500.2 of this Article shall be eliminated as a designated supply handler if such handler can demonstrate within 12 days after being designated as a designated supply handler that since the previous year, such handler no longer qualifies as a designated supply handler.

Section 500.5. Any call handler, who is unable to procure bulk market milk upon call from a designated supply handler, may file a complaint with the Department of Food and Agriculture against each designated supply handler who refused to make milk available under the requirements herein. Any such complaint shall be filed in a manner prescribed by the Secretary.

Section 500.6. Upon receipt of a complaint pursuant to Section 500.5, the Secretary shall review the reasonableness of the terms offered by the seller and determine the validity of any refusal to release the bulk market milk requested. If the Secretary determines that the complaint against the designated supply handler or handlers is justified, a charge of two dollars ($2.00) per hundredweight shall be assessed against the designated supply handler or handlers for each hundredweight of bulk milk requested but not supplied. In reviewing the reasonableness of the terms offered by the seller, the Secretary shall consider the following as being reasonable:

(A) the order for bulk milk shall be placed at least 48 hours prior to delivery.

(B) the seller may require payment on delivery.

(C) minimum delivery volume shall be not less than 5,000 gallons per day.

(D) transportation terms which are accepted as normal practice.

(E) the presence of a certification as required under Section 500.7 of this Article.

Section 500.7. Any call handler who makes a call upon a designated supply handler for market milk must file a certification with the Secretary and with such designated supply handler that the market milk requested will be used for Class 1 purposes and that such call handler meets the standards of a call handler as specified in Section 100.7. All market milk released pursuant to the provisions of this Article by a designated supply handler to a call handler shall be credited 100% for performance purposes.

Section 500.8. Any call handler who received market milk after certification pursuant to Section 500.7 of this Article, but who did not meet the terms of such certification and/or who was not a qualified call handler pursuant to Section 100.7 during the week for which the delivery and receipt of market milk was made, shall be assessed two dollars ($2.00) per hundredweight for each hundredweight of market milk received under the certification.

Section 500.9. Amounts assessed under this Article shall be added to the handler's obligation account and credited to the milk solids-not-fat producer equalization fund as such are established in the Pooling Plan for Market Milk.

Article VI - Unlawful Trade Practices

Section 600.0. As required by Section 62061, Chapter 2, Part 3, Division 21 of the Food and Agricultural Code, or as such is modified pursuant to Section 62724, Chapter 3, Part 3, Division 21 of the Food and Agricultural Code, producers and handlers are prohibited from engaging in unlawful trade practices hereinafter set forth:

(A) The payment, allowance or acceptance of any secret rebate, secret refund, or unearned discount by any person, whether in the form of money or otherwise, is an unlawful trade practice.

(B) The giving of any milk, cream, dairy product, service, or article of any kind, except to a bona fide charity, for the purpose of securing or retaining the market milk business of any customer is an unlawful trade practice.

(C) Except as otherwise provided in Paragraph (E), the purchase of any market milk in excess of 1,000 gallons monthly from any producer unless a written contract, which complies with all of the requirements which are prescribed by this section, has been entered into with such producer is an unlawful trade practice. The contract shall include all of the following:

(1) The amount of market milk which is to be purchased for any period.

(2) The price to be paid for all market milk received.

(3) The date and method of payment for such market milk, which shall be as prescribed pursuant to Section 1001 of the Pooling Plan.

(4) The charges for transportation, if hauled by the handler.

(5) The contract may contain such other provisions as are not in conflict either with this Article or with Chapter 2. A signed copy of such contract shall be filed by the producer with the Secretary within five days from the date of its execution.

(D) The production of market milk in excess of amounts provided to be purchased under contracts executed pursuant to Paragraph C shall be voluntary on the part of the producer and shall not be a condition, oral or written, of execution or renewal of any such contract.

(E) Paragraph (C) does not apply to the purchase of market milk which is necessary to meet an unanticipated increase in demand or an unanticipated shortage in the supply of a handler if both:

(1) The quantity of market milk so purchased from any one producer does not exceed 1,000 gallons in any one month.

(2) A complete record of all such purchases is kept by the handler and the price paid for such milk by the handler is not less than the price which is established in this Stabilization and Marketing Plan for the usage to which such milk is applied.

(F) The payment by a handler to any producer, including any nonprofit cooperative association acting as a producer, or the receipt by a producer, including any nonprofit cooperative association acting as a producer, from a handler of a lesser price for any market milk, distributed to any person, including any agency of federal, state, or local government, for less than the minimum prices established by the Secretary to be paid by handlers to producers for market milk for this Marketing Area is an unlawful trade practice.

(G) The failure of any handler to pay for market milk delivered to the handler at the time and in the manner specified in the contract with the producer is an unlawful trade practice.

(H) The provisions of Paragraphs (A), (B), (C), (D), (E), (F), and (G) apply regardless of the form in which market milk is received by the handler, and regardless of the area of origin of such market milk.

Section 600.1. As required by Sections 62094, 62095, and 62095.1, Chapter 2, Part 3, Division 21 of the Food and Agricultural Code, producers and handlers are prohibited from engaging in the unlawful trade practices hereinafter set forth:

(A) The payment, gift, or the offer or promise of any payment or gift, of money or other thing of value, directly or indirectly, or through any agent or other intermediary, to any person with the purpose or design of inducing such person to become or remain the wholesale customer of any handler is an unlawful trade practice.

(B) The payment, gift, or the offer or promise of any payment or gift, of money or other thing of value by any person, directly or indirectly or through any agent or other intermediary, to any handler, or producer, or the acceptance by any handler or producer of such payment or gift or thing of value is an unlawful trade practice if it is for any of the following:

(1) For the purpose of inducing a handler or producer to enter into a new contract, or to renew, extend, or modify an existing contract, for the purchase of market milk by a handler from a producer.

(2) As a condition upon which a handler will enter into a new contract, or renew, extend, or modify an existing contract for the purchase of market milk from a producer.

(3) For the purpose of enabling a handler to pay to a producer, or a producer to receive from a handler, less than the minimum class usage prices established by the Secretary to be paid by handlers to producers for market milk.

(C) The payment by a handler, either directly or indirectly, of less than the minimum producer price established under the applicable Stabilization and Marketing Plan adopted pursuant to Chapter 2, is an unlawful trade practice.