**STATE OF CALIFORNIA**

**DEPARTMENT OF FOOD AND AGRICULTURE**

**MILK POOLING BRANCH**

# POOLING PLAN FOR MARKET MILK

**AS AMENDED**

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CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

POOLING PLAN FOR MARKET MILK, AS AMENDED

## Article 1. Definitions

Section 100. The definitions contained in Chapter 2 and Chapter 3, Part 3, Division 21 of the Food and Agricultural Code govern the construction of this Plan.

Section 101. "Act" shall be known and may be cited as the "Food and Agricultural Code".

Section 102. "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 103. "Secretary" means the Secretary of the California Department of Food and Agriculture or any employee of such department duly assigned or delegated to perform the functions required pursuant to this Plan.

Section 104. "Producer" means any person that produces market milk in the State of California from five or more cows.

Section 104.1 "Dairy ranch" and "dairy farm" are synonymous terms and mean a commercial production facility which produces milk.

Section 105. "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 during the month directly or indirectly in the pool area;

(b) A duly incorporated cooperative association of producers which has authority from its individual producer members to market their milk and receive payment therefore 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 pool 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 therefore 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 pool area and receives market milk from one or more dairy ranches.

Section 106. "Pool plant" means:

(a) Any handler's milk receiving, processing, bottling, or manufacturing plant located in California from which Class 1 or mandatory Class 2 milk products are disposed of directly or indirectly in the pool area which receives market milk from one or more producers. Any handler with a pool plant qualified under this paragraph shall have the option to have any nonpool plant of that handler treated as either a "pool plant" or a "nonpool plant" for pool accounting purposes. This option may only be made once in any 12-month period.

Any handler with indirect Class 1 or mandatory Class 2 disposition may have the option of being treated as a "pool plant" or a "nonpool plant" for accounting purposes. Once an option has been selected, it shall remain in effect for a minimum of twelve consecutive months.

(b) Any handler's plant located in California which does not receive market milk from dairy farmers nor claim diversions of such milk, but which processes, packages, or manufactures milk or milk products or imitation milk, if Class 1 or mandatory Class 2 milk products are disposed of from such plant directly to retail or wholesale customers in the pool area. Any handler with a pool plant qualified under this paragraph shall have the option to have any nonpool plant of that handler treated as either a “pool plant” or a “nonpool plant” for pool accounting purposes. This option may only be made once in any 12-month period.

Any handler with indirect Class 1 or mandatory Class 2 disposition may have the option of being treated as a “pool plant” or a “nonpool plant” for accounting purposes. Once an option has been selected, it shall remain in effect for a minimum of twelve consecutive months.

(c) The following plants shall not be deemed to be pool plants and for accounting and settlement purposes shall operate outside of the pool:

(1) The plant of an exempt producer-handler;

(2) The plant of any governmental agency, unless such plant notifies the secretary it has elected to participate in the Pooling Plan no later than 30 days after the effective date of the Plan or 30 days after said plant commences operations. Having been admitted to the pool pursuant to the request, the plant may not subsequently withdraw;

(3) A plant from which Class 1 or mandatory Class 2 milk products are disposed of to retail or wholesale outlets in areas outside the pool area, but not to retail or wholesale outlets (except milk plants) in the pool area, nor to any pool plant having such dispositions;

(4) Any milk processing plant which is not approved by the appropriate public regulatory or health authority for the handling of market milk, provided that such plant receives no market milk except pool milk transferred or diverted by a handler and provided, further, that such plant notifies the secretary in advance that it chooses not to be a pool plant.

Section 106.1. “Call handler” means any handler as defined in Paragraphs 105(a), 105(b), and 105(d), whose total direct and derived solids not fat Class 1 usage equals or exceeds 80 percent of such handler's total market milk solids not fat received or diverted and whose direct and derived solids not fat combined Class 4a and Class 4b usage does not exceed 5 percent of such handler's total market milk solids not fat received or diverted. The handler's solids not fat Class 1 usage percentage requirement of this section may be increased or decreased by no more than 10 if the secretary deems it necessary in order to assure that a sufficient number of bottling plants may secure an adequate supply of milk.

Section 106.2. “Supply handler” means any handler that does not qualify as a call handler.

Section 106.3. “Designated supply handler” means any handler for any month who has been designated by the secretary as subject to call handler requests in accordance with the provisions of the Stabilization and Marketing Plans, as amended.

Section 106.4. “Procurement region” means a prescribed area in which a call handler and a supply handler are both located and in which the call provisions of the Stabilization and Marketing Plans are effective.

(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 excluding the counties of Del Norte, Fresno, Humboldt, Kern, Kings and Tulare.

(b) All handlers defined in Paragraphs 105(a), 105(b), and 105(d) of this article shall act as either supply or call handlers in the procurement region in which their plant is located.

(c) A handler defined in Paragraph 105(c) of this article shall be a supply handler for the procurement region in which such handler delivers the greatest volume of milk.

Section 106.5 “Mandatory Class 2" or “Mandatory Class 2 product” means any Class 2 product which must be made from market milk.

Section 107. “Base period” means the historical period of market milk production for usage in the pool area which shall be, at the individual producer's option, either the period beginning with the first day of July 1966, and ending with the last day of December 1966, both days inclusive, or the calendar year of 1967.

Section 108. “Production base” means the amount of fat and solids not fat computed by the secretary for each producer pursuant to Paragraphs (a), (b), or (c) of this section, subject to the rules contained in Article 2:

(a) The total pounds delivered by a producer as market milk to plants regulated under one or more of the Stabilization and Marketing Plans during the base period selected by the producer divided by the number of days in such period, except that if the producer did not deliver market milk throughout the entire period selected, the total deliveries of market milk during such period shall be divided by the number of days of production so delivered in that period but not less than 30 days; or

(b) The amount specified in contracts with handlers or the allocation to members of cooperative associations which contracts or allocations provided that the handler or cooperative association was required to accept a larger amount of market milk from such producer than the producer actually produced during the base period selected by such producer; provided that a producer who elects to have a base computed pursuant to this paragraph shall furnish documentation of proof concerning such contract or allocation to the secretary 30 days following official notice to the producer of the assignment of production base. The amount computed pursuant to this paragraph shall be subject to approval by the secretary and shall be established on a daily average basis for the entire base period selected and shall not take into consideration any combination of actual production of milk and contract or allocation in the determination of a production base; or

(c) A producer located south and east of San Gorgonio Pass may elect, in lieu of the base computed pursuant to Paragraph (a) or (b) of this section, to have a base computed by multiplying the pounds of market milk delivered by such producer to plants regulated under one or more of the Stabilization and Marketing Plans during the calendar months of December 1966, and January and February 1967, by 4 and the result divided by 365. The election pursuant to this paragraph must be stated in writing and delivered to the secretary not later than 30 days after the producer is officially notified of this production base as computed pursuant to Paragraph (a) or (b) of this section.

Section 108.5. “Monthly production base” means that amount of pool milk delivered by a producer during the month which is not in excess of the production base of such producer computed pursuant to Section 108, multiplied by the number of days in the month, less the number of days on which such producer (including producer members or patrons of cooperative associations) was degraded by the appropriate public regulatory or health authority.

Section 109. “Class 1 usage base” means the quantity of fat and solids not fat computed by the secretary equal to the pounds per day of market milk delivered by a producer to handlers in the pool area and assigned to Class 1 during the base period selected by the producer (including any market milk sold for Class 1 use to a United States military installation or other federal activity), provided that a producer whose milk was not received at a market milk plant during a portion of the base period shall have a Class 1 usage base computed by dividing the total of the milk assigned to Class 1 during the period in which such producer delivered market milk any of which was assigned to Class 1, by the number of days in such period, or by 30, whichever is larger, and provided, further, that the amount computed pursuant to this section may not exceed the producer's production base. A producer electing to have a production base computed pursuant to Paragraph 108(c) shall have a Class 1 usage base computed by multiplying the pounds of milk assigned to Class 1 during the period specified in that paragraph by 4 and dividing the result by 365.

Section 110. “Pool quota”, otherwise known as “quota”, means a quantity equal to 1.1 times the Class 1 usage base, as determined for the producer pursuant to Section 109.

Section 111. “Nonpool plant” means any milk manufacturing, processing, or packaging plant located in California other than a pool plant.

Section 111.1 “Nonpool milk” means:

a) Any market milk, skim or cream received from a California nonpool plant.

b) Any market milk received from a producer’s ranch from which during the prior twelve months milk was marketed as pool milk (in accordance with Article 9) and subsequently or simultaneously had other milk accounted for as nonpool milk.

c) Section b) shall not apply to milk that is sold directly to and used in a plant that processes Class 1 or Mandatory Class 2 products, or if the facility is sold or leased to a new operator.

Section 112. “Milk”, for purposes of this Plan, means the lacteal secretion from one or more cows, including the milk fat, solids not fat, and fluid carrier portions thereof, each to be computed and accounted for separately.

Section 113. “Market milk” means any and all milk that is produced in conformity with applicable regulations of the appropriate public regulatory or health authority for market milk of the place where such milk is to be consumed.

Section 113.1 “Bulk market milk” means milk, cream, or skim milk, other than packaged products, from market milk sources.

Section 113.2 “Manufacturing milk” means milk, cream, or skim milk, the source of which did not have the approval of any public regulatory or health authority for disposition as market milk.

Section 113.3 For the purpose of this plan, “Restricted use market milk” and “degraded milk” are synonymous terms and mean any milk produced at a market milk dairy ranch which is not produced under or does not conform to the standards established for the production of market milk. The degrading must be done by the appropriate public authorized regulatory agency charged with the administration of Division 15 of the California Food and Agricultural Code.

Restricted use market milk does not include condemned milk or milk which is not used for human consumption.

Section 114. “Pool milk” means:

(a) Market milk received from producers at a pool plant or nonpool plant;

(b) Market milk diverted by a handler from a producer's ranch to a pool or nonpool plant for the account of such handler;
(c) Market milk diverted by a handler (other than a cooperative association) to an out-of-state plant.

Section 115. “Quota milk” means that amount of fat and solids not fat contained in pool milk delivered by a producer during the month which is not in excess of the pool quota of such producer computed pursuant to Section 110 multiplied by the number of quota eligible days in the month.

Section 115.5 “Quota eligible days” means the number of calendar days in the month as reduced by the following:

(a) The number of days on which a producer (including producer members or patrons of cooperative associations) is degraded as defined in Section 113.3 in accordance with procedures established by an appropriate public regulatory or health authority;

(b) The number of days, on which the secretary agrees, a producer's milk did not meet the quality requirements specified in the producer's contract with the handler and such milk was not sold or used for Class 1 purposes and was otherwise handled in accordance with Section 62715 of the Food and Agricultural Code.

Section 116. “Daily production milk” or “daily base milk” means that amount of pool milk delivered by a producer during the month which is in excess of the pool quota computed pursuant to Section 110 of such producer but not in excess of the production base computed pursuant to Section 108.

Section 116.5 “Production milk” or “base milk” means that amount of pool milk delivered by a producer during the month which is equal to the monthly production base as computed pursuant to Section 108.5, less the amount of quota milk delivered during the month as computed pursuant to Section 115.

Section 117. “Overproduction milk” or “overbase milk” means that amount of pool milk delivered by a producer during the month, exclusive of milk degraded in accordance with procedures established by the appropriate public regulatory or health authority, which does not qualify as quota milk or base milk.

Section 118. “Pool area” means all the territory within the geographic boundaries of the following marketing areas as established by the Secretary of Food and Agriculture pursuant to Chapter 2, Part 3, Division 21 of the Food and Agricultural Code: Northern California and Southern California, or as such areas may be modified by amendment to the geographic boundaries as established by the secretary.

Section 119. “Family Transfer” means the transfer of production base and pool quota between:

(a) Spouses;

(b) Direct lineal descendants and their spouses;

(c) Direct lineal ancestors and their spouses.

In determining any of these relationships, full effect shall be given to legal adoption, and kindred to the half blood shall be recognized the same as kindred of the whole blood.

Section 120. “New producer” means any person qualified as a producer under Section 104 who does not have a production base and pool quota and meets all the requirements for new entry.

Section 121. “Exempt producer-handler” means any person who qualifies and who continues to qualify under the appropriate options to be excluded from the pool, pursuant to the provisions of Article 6.

Section 122. “Equalization point” means pool quota which is equal to 95 percent of the producer's individual production base.

Section 124. “Month” means one of the 12 calendar months into which the year is divided.

Section 125. “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 126. “Nonpool plants of governmental agencies” means any governmental agency that produces, processes, and consumes in its own facilities only its own production and operates outside the pool. Any production of such a governmental agency that is transferred or diverted to a pool plant is accountable to the pool.

Section 127. “Qualifying period production is the lesser of:

(a) 150 pounds of fat and 375 pounds of solids-not fat; or

(b) The average daily production of fat and solids not fat marketed to a milk plant located in the State of California during the 91-day period of September, October, and November immediately preceding the date of application or initial allocation, whichever is less.

Section 128. “Unissued qualifying period production”, for the purpose of this Plan, means qualifying period production as defined in Section 127, reduced by the initial allocation of production base pursuant to Paragraph 351(b), and any subsequent allocations of production base pursuant to Section 302.

Section 129. “Producer-handler”, for the purpose of this Plan, shall be as defined in Article 6 and Article 6.5.

Section 130. “Inplant usage” means the percentage of market milk fat and the percentage of skim milk utilized in Class 1, Class 2, Class 3, Class 4a and Class 4b by a plant in its operation including bulk shipments to nonpool plants and excluding bulk shipments to pool plants. In computing the percentage of usage in each class the following items are deducted before calculating the percentages:

(a) The volume of condensed and dry products used in the fortification of Class 1 products.

(b) Packaged Class 1 products received from other handlers.

(c) Packaged Class 1 products on hand in the plant at the beginning of the month.

(d) Manufacturing milk assigned to each class pursuant to Section 131.

Section 131. "Manufacturing milk usage" means the percentage of milk fat and the percentage of skim milk utilized in Class 2, Class 3, Class 4a and Class 4b by a plant in its operation including bulk shipments to nonpool plants and excluding bulk shipments to pool plants. In computing the percentage of usage in each class the following items are deducted before calculating the percentage:

(a) Class 2 market milk products.

(b) The milk fat and/or skim milk used in Class 3 products which requires the use of market milk.

(c) The milk fat and/or skim milk used in Class 4a products which requires the use of market milk.

Section 132. "Pool Price Modification Rate", is an adjustment added to the solids not fat quota and overbase prices for determining the pool credit assigned to handlers for receipts of other source milk in accordance with Section 900(d). The rate is calculated for each pool month by dividing the total value of the plant to plant transportation adjustments plus the total value for transportation allowances by the total pounds of solids not fat for receipts from producers and for other source milk.

Section 133. Notwithstanding Section 1001(d), any nonpool handler purchasing market milk from a producer shall account to the pool in accordance with the provisions of Article 9 if the following conditions exist.

a) If the farm from which the market milk is being delivered has subsequent to January 1, 2004 had all of its market milk accounted for as pool milk for a period of less than 12 consecutive months. This provision does not apply if the facility is sold or leased to a new operator.

## Article 2. Eligibility for a Production Base and Pool Quota

Section 200. The secretary shall compute and establish a production base and pool quota for each producer who produced market milk which was delivered to a plant regulated under one or more of the Stabilization and Marketing Plans effective in the pool area specified in Section 118, during any base period, subject to the following requirements:

(a) If a producer operated more than one dairy farm holding valid market milk permits during any base period, or during the months of December 1966 and January and February 1967 for producers whose production base is computed under Paragraph 108(c) a separate production base and pool quota shall be computed, for deliveries from each such dairy farm. If such farms were not operated separately for the entire base period selected, they shall be combined for computing base and quota;

(b) Only one production base and one pool quota shall be computed for a single production unit which was jointly owned or operated by one or more persons during any base-forming period;

(c) Producers of certified milk or guaranteed raw milk who qualify under Section 104 shall have the option to be included in the Plan at the time of the adoption of the initial Pooling Plan, provided they so state in an application to the secretary submitted no later than the effective date of the Plan. Admission to the Pooling Plan at a later date by such producers shall be on the basis of the production base and pool quota computed according to the same procedure provided under Section 602, for producer-handlers;

(d) Any person who purchased or otherwise acquired a producer's business or a portion of a producer's business after June 30, 1966, and prior to the effective date of this Pooling Plan, shall succeed to the same proportion of the producer's production base and pool quota, provided that the same rules concerning eligibility for and computation of base and quota amounts shall apply to the business so transferred as though no change in ownership had occurred. For purposes of this paragraph, the term “business” shall be deemed to be the dairy herd and other physical facilities which made up the business transferred, or all or any portion of a market milk supply contract or allotment which was purchased or otherwise acquired under conditions of continuing performance. The transaction by which the business was acquired shall be fully disclosed and documented on forms provided by and filed with the secretary. Any misrepresentation of facts or falsity in statements by either party shall constitute cause for forfeiture of all or any portion of the production base and pool quota under consideration as purchased or acquired. Any disagreement of the producer with the computation of a base and quota which involves this paragraph shall be referred to the Producer Review Board.

## Article 3. Adjustment of Production Base and Pool Quota

Section 300. After August 31 of each year, and prior to January 1 of the following year, the secretary shall determine the actual new daily Class 1 and Class 2 usage of solids not fat for the pool area, if any, as follows:

(a) The Class 1 and Class 2 usage of solids not fat for the most recent September through August 12-month period shall be measured against the Class 1 and Class 2 usage of solids not fat for the previous highest identical 12-month period since the 1988-1989 measurement period;

(b) The Class 1 and Class 2 usage of solids not fat for each 12-month period shall take into consideration the total Class 1 and Class 2 usage generated by the pool, plus that amount which is exempted from pool accountability by producer-handlers operating with an exemption under the provisions of Article 6 or Article 6.5, and further adjusted by the amount of certified raw milk used for Class 1 and Class 2 purposes;

(c) If new Class 1 and Class 2 usage of solids not fat is to be assigned pursuant to this article, a ratio of 1 pound of fat to 2.5 pounds of solids not fat shall be used to determine the new Class 1 and Class 2 usage of fat.

Section 301. The total new Class 1 and Class 2 usage computed in accordance with Section 300, shall be allocated to producers as pool quota as follows:

(a) Forty percent of the new quota shall be available for allocation in accordance with the following provisions:

(1) A factor shall be computed based on the production base and pool quota in effect on December 1 for those producers who have not reached the equalization point, using one of the following methods:

(i) For those producers who meet the one-year production requirement pursuant to Section 352, and who received an initial allocation of quota and production base after December 20, 1976 under the provisions of Article 3.5, a factor equal to 75 percent of currently held production base increased by unissued qualifying period production plus the difference between the currently held production base increased by unissued qualifying period production and pool quota; or

(ii) For all other qualifying producers, a factor equal to 75 percent of the production base plus the difference between the production base and pool quota.

(2) Divide the factor obtained for each producer under Subparagraph 301(a)(1), by the total of the factors obtained for all producers under that Subparagraph;

(3) The result obtained from the computation under Subparagraph 301(a)(2) shall determine the percentage of new pool quota which is available for allocation to each producer. This amount as adjusted by Subparagraph 301(a)(4) shall be assigned to each producer, except that no allocation shall be made to any producer which will result in a pool quota exceeding the equalization point;

(4) If, after these computations, the pool quota of the milk fat or solids not fat component of any producer is less than the equalization point of such producer by no more than 3.5 or 8.5 pounds, respectively, both components shall be increased to the equalization point;

(5) The secretary shall not be obligated to reduce the new quota available for allocation computed pursuant to Paragraph 301(a) by the additional quota assigned pursuant to Subparagraph 301(a)(4), but shall reallocate one time only the residual quota occurring because of a producer reaching equalization by the operation of Subparagraph 301(a)(3);

(6) Any new pool quota remaining to be assigned after all participating pool quotas have reached the equalization point shall be added to that available under Paragraph 301(b) for assignment.

(b) Forty percent of the new quota, increased by that made available under Subparagraph 301(a)(6) shall be allocated to producers whose total production base and pool quota are equal to or above the equalization point. Each such producer's allocation shall be in the same ratio as that producer's total holdings of quota bears to the total quota holdings of all such producers.

(c) There shall be no forfeiture of any pool quota, including that assigned pursuant to this article, except as provided under

Article 5.

Section 302. Producers who qualify under Article 3.5 for participation in new pool quota pursuant to Paragraph 301(a) shall receive additional production base at the lesser of 111 percent of the additional pool quota allocated or their unissued qualifying period production. Producers reaching equalization under this provision will receive additional production base equaling unissued qualifying period production. A producer who qualifies under Article 3.5, will be considered to have reached equalization when quota is equal to or greater than 95 percent of the sum of currently held production base and unissued qualifying period production.

## Article 3.5. Allocation of New Producer's Production Base and Pool Quota

Section 350. Twenty percent of total new Class 1 and Class 2 usage computed in accordance with Section 300 shall be available for initial quota allocations to new producers as defined in Article 4.5. Such allocations shall be made available as of February 1 of each year to new producers who qualify under Article 4.5. This amount shall be added to any previous amount made available pursuant to this section and not allocated.

In addition, any quota which has reverted to the pool, under the provisions of Article 5 shall be allocated on a continuing basis to qualifying new producers. This quota will be accumulated until such time as there is sufficient quota to issue to the next new producer on the priority list under the provisions of Sections 351 and 453. Such quota shall be made available for allocation within 90 days after the quota has reverted to the pool.

Section 351. The new producer's initial allocation shall be:

(a) Pool quota at the lesser of:

(1) 95 percent of the qualifying period production as defined in Section 127, or

(2) An amount determined by multiplying a factor times 150 pounds of fat and 375 pounds of solids not fat. The factor to be used shall be the larger of:

(i) 40 percent;

(ii) The lowest factor obtained by dividing the pool quota solids not fat of each producer who receives an allocation pursuant to Article 3 by that producer's production base of solids not fat.

(b) Production base at the lesser of:

(1) The qualifying period production as defined in Section 127, or

(2) 111 percent of the pool quota allocated.

Section 352. Producers who received an initial allocation under Section 351 shall participate in future allocations under Sections 301 and 302 after a one-year minimum period of continuous production following initial allocation.

Section 353. Any pool quota received pursuant to Sections 351 and 352 shall be subject to the provisions of Article 5.

Section 354. No allocation shall be made to any producer which will result in a pool quota exceeding the equalization point.

## Article 4.5. New Producer Entry

Section 450. A new producer, as defined under Section 120, and who qualifies under this article, may make application to the secretary on forms provided to establish eligibility for an allocation of quota. Quota, if available, will be allocated within 90 days following the receipt of the application.

Section 451. To qualify for allocation of new quota, a new producer must:

(a) Obtain a market milk permit from the appropriate California regulatory or health authority prior to making application, and

(b) Have a market milk contract and be shipping to a pool handler prior to making application, and

(c) Have one year of continuous commercial production within the State of California prior to making application, and maintain continuous market milk production until receiving an allocation of new quota, and

(d) Satisfy the requirement that at least 50 percent of the interest in the dairy operation is owned by individuals directly engaged in the management and operation of the dairy, and

(e) Operate a production facility that is completely separate and apart from any other production facility for a minimum of one year prior to making application and until new quota has been allocated, and

(f) Satisfy the requirement that no individual or person may apply for new quota on more than one production facility, and

(g) Operate a production facility under the same ownership percentages as stated in the application for a minimum of one year prior to making application and until new quota has been allocated.

Section 451.2 For a minimum of five years after the initial allocation, a new producer must continue to meet the requirements specified under Section 451. Failure to comply with this provision shall result in the forfeiture of all new quota.

Section 451.5 In the case of partnerships or corporations applying under the provisions of this article, each individual who is a partner or stockholder must individually meet the qualifying requirements.

Section 452. No producer shall qualify under this article for any production base and pool quota if any individual or person involved in the ownership thereof has:

(a) Transferred or benefited from the transfer of production base and pool quota, except under the provisions of Section 452.5, during the preceding ten-year period;

(b) An ownership interest in another entity which has production base and pool quota.

Section 452.5 Producers who have qualified under this article for new quota shall be allowed to purchase or otherwise acquire production base and pool quota without jeopardizing their eligibility for an allocation of new quota provided two years have elapsed since the receipt of their new producer application.

(a) Pool quota acquired under this section shall be subject to the provisions of Section 500(o);

(b) If a new producer purchases or acquires pool quota under this section and subsequently transfers such pool quota, that producer shall not be eligible to receive or apply for any allocation of new quota under this article until ten years have elapsed since the date of the last transfer.

Section 453. The secretary shall give priority to new producer applications as follows:

(a) Priority will be established based on the date the application is physically received by the Sacramento office of the Milk Pooling Branch;

(b) For applications received on the same day, priority will be established based on the total length of time in production or time elapsed since a transfer of production base and pool quota, whichever is less;

(c) For applications received on the same day with the same length of production time, priority will be established based on the total length of time in market milk production.

## Article 5. Transfer of Base and Quota

Section 500. The secretary's approval shall be obtained before a transfer of production base and pool quota can be made from one person to another and the secretary's approval shall be predicated on the determination that such transfer is bona fide and not with the intent and purpose to circumvent or evade any provision of this Plan, subject to the following conditions:

(a) A cooperative association of producers may permit transfers of production base and pool quota among its member producers in accordance with the bylaws, articles of incorporation, or marketing agreement of such association, subject to the provisions of this section and Section 501;

(b) No transfer of production base which does not accompany transfers of quota in accordance with the other paragraphs of this section will be permitted;

(c) Any transfer of a portion of a producer's pool quota shall carry with it the same quantity of production base except that if the pool quota exceeds the production base, the pool quota shall carry with it a percentage of production base equal to the percentage of pool quota so transferred. In either case, the producer making a partial transfer shall lose a percentage of the production base equal to the percentage of the pool quota which is so transferred. A producer may transfer the entire production base and pool quota to another person or persons in accordance with the provisions of this article, provided that such transfer shall include the entire production base and the entire pool quota of such producer;

(d) The transfer of production base and pool quota may be made only to a person who maintains a valid market milk permit or who the secretary determines may qualify as a producer;

(e) Production base and pool quota may not be transferred by a transferor in an amount less than 50 pounds of pool quota fat unless the transferor is transferring the entire production base and pool quota eligible to be transferred. Production base and pool quota may not be received by a transferee in an amount less than 10 pounds of pool quota fat unless the transferee is receiving the entire production base and pool quota eligible to be transferred by the transferor;

(f) Any transfer of production base and pool quota shall become effective for pool computation purposes on the first day of the month following the day the transfer is agreed to by the parties involved and approved by the secretary;

(g) Any producer may transfer pool quota and production base from one location to another without regard to whether the real property used in such production is owned or leased by such producer;

(h) Any producer who discontinues shipping market milk through a pool plant or cooperative association, as defined in Paragraphs 105(b) or 105(c), for any reason, including the placement of a producer on degrade status in accordance with procedures established by a regulatory or health authority or failure of the plant to qualify as a pool plant, may within 60 days, locate and commence shipments through a pool plant or cooperative association, or may, if otherwise qualified, sell or transfer the production base and pool quota held by such producer to one or more producers holding valid market milk permits or any person whom the secretary determines may qualify as a producer. In the event a plant or a cooperative association fails to maintain its pool status, the 60-day period for producers shipping through such handler shall commence upon the notification to producers by the secretary of the plant's loss of pool status. If production base and pool quota is not made active by shipments of market milk to a pool plant or cooperative association or is not transferred within the 60-day period, such base and quota shall revert to the pool;

(I) Any producer who has acquired production base and pool quota pursuant to this section during the preceding 24-month period shall not be eligible to transfer production base and pool quota to another producer except as this may be permitted under the provisions of Section 700;

(j) Any producer who received production base and pool quota under the hardship provisions of Article 7 shall not be eligible to transfer all or any part of the production base and pool quota so assigned until five years have elapsed after such assignment. Any production base and pool quota held by such producer, other than that assigned pursuant to Article 7 may be disposed of (subject to the provisions of this section) only in their entirety within the five-year period specified and, if they are so disposed of within that period, the production base and pool quota assigned under Article 7 shall revert to the pool for reallocation;

(k) Production base and pool quota issued under the hardship provisions shall revert to the pool for reallocation in the event the holder of such production base and pool quota discontinues milk production within the periods specified in Paragraph 500(j);

(l) Any producer transferring a portion of the production base and pool quota shall not be eligible to acquire production base and pool quota, except pursuant to Article 3, within the 24-month period following such transfer;

(m) Family transfers as defined in Section 119 shall not be limited by the provisions of Paragraphs 500(I), 500(j), 500(k), 500(l), and 500(p), but the member(s) of the family receiving such production base and pool quota shall be subject to any restrictions which would have been applicable had the base and quota not been so transferred;

(n) A member of a cooperative association may transfer production base and pool quota, subject to the provisions of the bylaws, articles of incorporation, or marketing agreement of such association, to or from any person not a member of the same association who is eligible to make such transfer under this article;

(o) Producers who received an initial allocation of production base and pool quota pursuant to Article 3.5 shall not be eligible to transfer any production base and pool quota to any other person within a five-year period following the initial allocation. Should such producer discontinue milk production within this five-year period, the production base and pool quota shall revert to the pool;

(p) A corporation or partnership shall notify the secretary whenever a change in ownership interest in excess of five percent has occurred among existing stockholders or partners. For the purpose of this requirement, partnership interest is represented by the percentage of each partner's share in the profit and loss of the partnership, and ownership in a corporation is represented by the voting and nonvoting stock of the corporation. Any transfer of ownership interest in a corporation or partnership to a person other than those who currently have an interest shall constitute a transfer and such transfer shall be subject to all restrictions provided under this article;

(q) Transfer by testamentary device or bequest or intestate succession shall be excluded from all transfer restrictions imposed under Paragraphs 500(I), 500(j), 500(k), 500(l), 500(o), 500(p), and 500(r) but the transferee receiving such production base and pool quota shall be subject to any restrictions which would have been applicable had the production base and pool quota not been so transferred;

(r) Any producer receiving a new quota allocation under Article 3 shall not be eligible to transfer that so acquired within the five-year period immediately following such allocation;

(1) Should a producer discontinue milk production or transfer all eligible quota, any quota not eligible for transfer under this paragraph shall be forfeited;

(2) Should a producer transfer a portion of the quota eligible for transfer under this paragraph, all allocations received under Article 3 may be retained;

(3) Any quota forfeited pursuant to this paragraph shall revert to the pool for reallocation.

(s) Producer-members of a cooperative association as defined under Paragraphs 105(b) and 105(c) shall be subject to the restrictions and penalties contained in Paragraph 500(h) in the event such cooperative fails for 60 consecutive days to market a portion of the milk from its producer-members through a pool plant;

(t) In addition to the provisions of Paragraph 500(m), a transfer to a direct lineal descendant shall not be limited by the provisions of Paragraphs 500(o) and 500(r) of this section, but the transferee receiving such production base and pool quota shall be subject to any restrictions which would have been applicable had the base and quota not been so transferred.

Section 501. A transfer of production base and pool quota may be made only after compliance with the following:

(a) Application is made on forms prescribed by the secretary and must be received by the Department by the 15th of any month prior to the first of the month on which the transfer will become effective;

(b) Applicants for production base and pool quota transfers (transferor and transferee) must certify in the application that all matters relating to the transaction have been fully disclosed and documented. Any misrepresentation of facts or falsity in statements by either party shall constitute cause for forfeiture of all or any portion of the production base and pool quota under consideration for transfer.

Section 502. The production base and the pool quota of active member producers of a cooperative association shall belong to the individual producer, but shall be assigned to the custody and control of the cooperative association. A cooperative association may combine the bases and quotas assigned to it by members and nonmembers into one base and one quota for purposes of accounting for milk marketed under this Plan, provided that the bases and quotas of the nonmembers may be so combined only if such cooperative association accounts to the nonmembers on a patronage basis.

Section 503. All transfers of production base and pool quota shall be recorded by the secretary in a manner consistent with the purposes of this Plan, including public disclosure of the terms of such transfers upon request.

Section 504. Production base and pool quota shall not be leased or rented by one producer to another.

## Article 6. Producer-Handler Options

Section 601. Any producer-handler who currently operates under the provisions of this section, or any producer-handler who elects pursuant to Sections 604 and 604.5 to operate under this section shall not be subject to the Plan, provided the following requirements are met:

(a) The producer-handler's farm production must average less than 500 gallons per day during each 12-month period, September 1 through August 31;

(b) Sales must average less than 500 gallons per day during each 12-month period, September 1 through August 31;

(c) Ninety-five percent of the farm production and 95 percent of the sales must be disposed of to retail or wholesale outlets (other than market milk handlers).

Section 602. Any producer-handler, who qualified for exemption under Section 601, may subsequently be admitted to the pool upon written request to the secretary for any month beginning no less than ten days after such request is filed with the secretary. Having once been admitted to the pool pursuant to the request, the producer-handler may not subsequently withdraw.

Section 604. Any producer-handler who begins active operation after the effective date of this Plan and who meets and continues to meet the requirements of Section 601 shall be exempt from this Pooling Plan provided such exemption is requested in writing prior to the first day of the producer-handler's second operational month. Such producer-handler shall not have a base and quota assigned. If the producer-handler fails to qualify for exemption from the Plan, the entity shall be considered as a new producer.

Section 604.5. Any producer-handler having sold all production base and pool quota and who meets and continues to meet the requirements of Section 601 shall be exempt from this Pooling Plan provided such exemption is requested in writing prior to the first day of the month for which the producer-handler elects to be exempt. If such a producer-handler fails to continue to qualify for this exemption, the entity shall be considered a new producer subject to the restrictions as set forth in Section 452.

Section 605. Any producer-handler who is exempt from the provisions of the Pooling Plan by reason of the provisions of this article, who at some subsequent date loses exemption by failure to meet the requirements for the exemptions set forth, shall automatically be deemed to have applied for and become subject to the Plan on September 1 following any year ending August 31 during which the secretary determines the producer-handler is no longer entitled to exemption. Determination of failure to meet the requirements for exemption shall be made each month by the secretary, except that where annual data are involved computations of averages shall be made for each year ending August 31.

## Article 6.5. Special Producer-Handler Option

Section 650. A producer-handler, for the purposes of this article, shall also include, as a separate and distinct category of producer-handlers, any producer and any handler who purchases or handles market milk or market cream produced by such producer if they meet the requirement that all of the ownership of the handler and all of the ownership of the producer is owned by the same person or persons and their ownership in the producer or handler is at least 95 percent identical for each person with their ownership in the handler or producer. Such ownership shall not exceed ten individual persons or owners of equitable interest in a partnership, corporation, or other legally constituted business association.

Section 651. The ownership required by this article may be through a partnership, corporation, or other legally constituted business association so long as the entities are owned by the same person or persons, and there is at least 95 percent identity of ownership for each person with their ownership in the handler or producer. For the purposes of this article, a "person" or "persons" includes the spouse, or other persons of lineal consanguinity of the first or second degree or collateral consanguinity to the fourth degree, and their spouses, and includes an adopted child the same as a natural child and kindred of the half blood equally with those of the whole blood of the owner and ownerships by persons so related shall be considered single ownership by one person. For the purpose of this article, property pledged or hypothecated in any manner to others shall be considered "owned" so long as equitable ownership with management and control remain with the producer-handler.

Section 652. Ownership, as provided in this article, shall have existed at the time of the base period selected by the producer under Section 107, and at all times thereafter.

Section 653. Any producer-handler qualified under this article may, no later than August 5, 1969, notify the secretary of the election:

(a) To join and operate wholly within such pool; or

(b) To have the entire original production base and pool quota determined during the base period selected as a producer, pursuant to Sections 108 and 110, established as a part of such Pooling Plan, and nevertheless elect to operate entirely outside of the pool to the extent of the provisions of Section 654.

Section 654. Any producer-handler who elects to operate outside the pool pursuant to Paragraph 653(b) shall have its quota milk deducted from its own Class 1 usage, plus a further daily deduction from such usage of 150 pounds of milk fat and 375 pounds of solids not fat, before being required to account to the pool, even though the average Class 1 usage in the pool for that month may be less than 100 percent of the quota milk in the pool.

Section 655. The fact that a producer-handler qualifies as to one of its milk production operations under this article does not prevent the producer-handler from operating on an entirely separate nonqualifying basis at other milk production facilities, and with other nonqualifying persons at such other milk production facilities. A producer-handler can neither buy nor sell the option granted under this article, but this shall not prevent the producer-handler from purchasing or selling pool quota or production base as otherwise provided in this Pooling Plan.

Section 656. If at any time, ownership, as defined in this article ceases, the producer-handler shall no longer be eligible for the option in this article and shall account to the pool as a separate handler and shall be entitled to reentry into producer participation in the pool on the same basis as a producer-handler may, under Sections 602 and 605, or the producer-handler may elect to become an exempt producer-handler provided the entity qualifies under the provisions of Section 604.5.

Section 657. Pool quota exempted under this article shall not be subject to the provisions of Article 9.1 and Article 9.2.

## Article 7. Hardship Consideration

Section 700. Producers may file a written request with the secretary for relief from an alleged hardship resulting from conditions beyond the control of the producer; such as, fire, flood, storms, and other acts of God, or from federal and State eradication programs for disease control. Producers may request a review of alleged hardships resulting from certain Pooling Plan provisions relative to:

(a) Eligibility for production base and pool quota;

(b) Production base and pool quota allocations and assignments;

(c) Producer-handler exemption provisions;

(d) Provisions regulating transfer of production bases and pool quotas;

(e) Loss of production base or pool quota;

(f) Other matters relating to assignment or use of base or quota as specified in this Plan.

Section 701. Any requests for hardship review relative to the initial assignments of production base and pool quota shall include:

(a) A request in writing within 90 days after the initial notice of the production base and pool quota has been received by the producer from the secretary;

(b) An explanation of the issue or issues for which the review is requested with full details;

(c) The extent of relief requested.

Section 702. All requests for hardship relief shall be reviewed by members of the Producer Review Board. The secretary may establish one or more review boards from the 13-member Producer Review Board and may assign a staff member as a secretary to assist the Board.

Section 703. In reviewing a case, each such Board may request the applicant to appear for oral interview, and the Board shall submit its recommendation in writing to the secretary, along with a summary of its findings, on each case. The recommendation shall either reject the request or indicate the extent of relief recommended and the effective date for such relief.

Section 704. The Review Board recommendations shall be subject to approval or modification by the secretary, who shall notify the producer in writing of the decision within 15 days after receiving the recommendations from the Review Board.

Article 8. Handler Reports of Receipts and Utilization; Classification and Assignment

Section 800. Each handler, including nonpool plants, and each producer-handler shall submit a report for each month which shall be transmitted by U.S. mail and postmarked no later than the 8th day of the following month, or physically delivered to the secretary no later than the 10th day of the following month. Such report shall be on forms prescribed by the secretary and shall contain the following information identified by producer:

(a) The pounds and milk fat and solids not fat content of market milk received into the handler's plant;

(b) The pounds and milk fat and solids not fat content of market milk diverted to other plants; each listed separately by name and location. Cooperative associations acting as handlers under Paragraph 105(c) must agree the pounds reported pursuant to this paragraph with the summary of the total pool milk marketed and reported under Paragraph 801(b);

(c) The pounds and milk fat and solids not fat content of certified or guaranteed raw milk received into the handler's plant or diverted to other plants; the amount of such receipts shall be separated between that which qualifies as exempt certified or guaranteed raw milk usage and that which does not so qualify;

(d) The number of milkings degraded in accordance with procedures established by the appropriate public regulatory or health authority;

(e) The number of milkings rejected as specified in Section 62715 of the Food and Agricultural Code;

(f) Any other information the secretary deems necessary.

Section 800.5 Each handler, including nonpool plants, and each producer-handler shall submit a report for each month which shall be transmitted by U.S. mail and postmarked no later than the 18th day of the following month, or physically delivered to the secretary no later than the 20th day of the following month. Such report shall be on forms prescribed by the secretary and shall contain the following information identified by producer or dairy ranch operator:

(a) The pounds and milk fat and solids not fat content of manufacturing milk and restricted use market milk received into the handler's plant;

(b) The pounds and milk fat and solids not fat content of manufacturing milk and restricted use market milk diverted to other plants; each listed separately by name and location;

Section 801. Each handler, including nonpool plants, and each producer-handler and exempt producer-handler shall submit a report for each month which shall be transmitted by U.S. mail and postmarked no later than the 12th day of the following month, or physically delivered to the secretary no later than the 14th day of the following month. Such report shall be on forms prescribed by the secretary and shall include the product pounds and, where necessary, the milk fat and solids not fat components for the following:

(a) For each processing plant, the following receipts and other items available for utilization:

(1) The summary total of the pool milk received from producers, including milk diverted by the reporting handler to other plants;

(2) The summary total of restricted use market milk received from producers, including milk diverted by the reporting handler to other plants;

(3) The summary total of manufacturing milk received from manufacturing milk dairy ranches, including milk diverted by the reporting handler to other plants;

(4) Bulk market milk received as transfers from other pool plants, and as direct diversions from other pool handlers, each identified by source;

(5) Manufacturing milk received as transfers from other plants, and as direct diversions from other handlers, identified by source;

(6) Restricted use market milk received as transfers from other plants, and as direct diversions from other handlers,

identified by source;

(7) Packaged Class 1 products received from California plants;

(8) Packaged Class 1 products received from out-of-state plants;

(9) Market milk items from any source not previously specified in this section which have the approval of the appropriate public regulatory or health authority for use in market milk products in the area where they are to be disposed of, showing the name and location of the source;

(10) Condensed skim or dry powder, from all sources, used in the fortification or reconstitution of Class 1 products;

(11) Packaged Class 1 products on hand in the plant at the beginning of the month;

(12) Bulk market milk and manufacturing milk on hand in the plant at the beginning of month;

(13) Any other information the secretary deems necessary.

(b) Cooperative associations which act as handlers pursuant to Paragraph 105(c) shall report, in summary, the total pounds and milk fat and solids not fat content of pool milk marketed from producer-members and nonmember patrons, and any other information the secretary deems necessary;

(c) Producer-handlers qualifying under Article 6 or Article 6.5 shall report the same items as required of handlers under Paragraph 801(a) and shall include receipts from the producer-handler's own farm production into its own plant;

(d) The operator of any milk processing or packaging plant, not otherwise required to report pursuant to this section, from which market milk items are disposed of to retail or wholesale outlets, other than milk plants, in the pool areas shall report the source of its receipts of market milk or other products containing milk fat or solids not fat .

Section 802. Each handler required to report pursuant to Section 801 shall, on the same report, show the product pounds and milk fat content for the following utilization or disposition:

(a) For each processing plant, the following:

(1) Class 1 products disposed of in packaged form (including dispensers) to retail outlets, wholesale outlets, and other plants;

(2) Bulk market milk, restricted use market milk and manufacturing milk utilized in the manufacture of Class 2, Class 3, Class 4a, and Class 4b products;

(3) Bulk market milk transferred or diverted to pool plants, each identified by destination. The classification of such items shall be based upon the receiving handler's inplant usage of each class for the previous month ;

(4) Bulk market milk transferred or diverted to exempt producer-handlers, each identified by destination; such items shall be classified as Class 1;

(5) Bulk market milk and restricted use market milk diverted to nonpool plants or other outlets except pool plants and the claimed classification thereof, provided that if such classification is other than Class 1, the classification of such milk shall be changed to Class 1 at a later date if the secretary is unable to verify its use in lower priced classes; such items shall be identified by destination;

(6) Bulk market milk, restricted use market milk and manufacturing milk transferred to nonpool plants or other outlets except pool plants and the claimed classification thereof, provided that if such classification is other than Class 1, the classification of such milk shall be changed to Class 1 at a later date if the secretary is unable to verify its use in lower priced classes; such items shall be identified by destination;

(7) Packaged Class 1 products on hand at the end of the month which shall be classified as Class 1;

(8) Bulk market milk on hand at the end of the month which shall be unclassified but shall be priced at the Class 4a level;

(9) Bulk manufacturing milk on hand at the end of the month;

(10) For plants who have Class 1 inplant disposition, the disappearance of milk fat or skim milk not to exceed 3 percent of the total receipts for the reported month shall be classified on the basis of the percentage of the inplant utilization of the current month, with any excess shrinkage above 3 percent classified as Class 1; for plants having no Class 1 inplant disposition, the total disappearance shall be classified on the basis of the percentage of the inplant utilization of the current month; provided, however, if the operator of the plant does not make and retain full and complete records of the receipt, use, disposition and handling of all milk or milk products received in the plant and inventories thereof, the secretary shall classify any disappearance of milk fat or skim milk as Class 1.

(b) For each cooperative association acting as a handler under Paragraph 105(c) the following:

(1) Bulk market milk diverted to pool plants, each identified by destination; the classification of such items shall be based upon the receiving handler's inplant usage of each class for the previous month;

(2) Bulk market milk diverted to nonpool plants or other outlets except pool plants and the claimed classification thereof, provided that if such classification is other than Class 1 the classification of such milk shall be changed to Class 1 at a later date if the secretary is unable to verify its use in lower priced classes; such items shall be identified by destination.

(3) Bulk manufacturing milk and restricted use market milk diverted to nonpool plants or other outlets except pool plants, and the claimed classification thereof, provided that if such classification cannot be verified by the Secretary, the Secretary, in his or her discretion may reclassify such milk to an appropriate class.

Section 803. The total product pounds, milk fat and solids not fat available for utilization reported by each handler pursuant to Section 801 shall be computed and classified in accordance with its disposition or use as reported under Section 802 and assigned as Class 1, Class 2, Class 3, Class 4a and Class 4b, or inventory in accordance with the following procedures:

(a) A producer-handler who continues to qualify under Article 6.5 may have quota milk, including quota purchased prior to March 1, 1995, which is received from its own farm production deducted from its own inplant Class 1 usage, plus a further daily deduction from such usage of 150 pounds of milk fat and 375 pounds of solids not fat. (Inplant Class 1 usage shall not include packaged Class 1 products received from other handlers, or bulk or packaged market milk disposed of to other handlers.) The daily deduction of 150 pounds of milk fat and 375 pounds of solids not fat shall not apply if the producer-handler sold production base and pool quota subsequent to February 9, 1977. Any quota milk, as authorized for deduction pursuant to this paragraph, which cannot be so deducted in excess of the inplant Class 1 usage may participate in the base pool, but only to the extent that the inplant Class 1 usage is less than this monthly production base as determined from the producer-handler's production base as determined from the producer-handler's original production base, plus production base purchased prior to March 1, 1995. The balance of such quota milk, if any, must participate in the overbase pool. In no event may such a producer-handler participate in the quota pool on any quota milk, as determined pursuant to this paragraph, which cannot be assigned to its own Class 1 usage;

(b) Manufacturing milk and nonpool milk shall be assigned on the basis of the current month's manufacturing milk usage and deducted from the handlers obligation.

(c) Restricted use market milk shall be assigned the current months value of either the Class 4a or Class 4b price, whichever is lesser, and deducted from the handlers obligation.

(d) Market milk from nonpool governmental agencies shall be assigned the current months value of either the Class 4a or Class 4b price, whichever is lesser, and deducted from the handlers obligation.

(e) Market milk items approved by the appropriate public regulatory or health authority for market milk disposition in the State of California which are received from dairy farmers or milk plants outside the State and used by the handler in its market milk business shall be assigned on a pro rata basis to Class 1, Class 2, Class 3, Class 4a, and Class 4b milk according to the inplant utilization of the previous month of all market milk items received by such handler;

(f) Bulk market milk, restricted use market milk and manufacturing milk which were on hand as inventory at the beginning of the month shall be deducted from the bulk ending inventory in arriving at the net usage for the month; dollar credit shall be given for this item equivalent to the previous month's charge;

(g) Certified or guaranteed raw milk receipts which do not qualify as exempt certified or guaranteed raw milk usage shall be accounted for according to the actual disposition or usage of such milk;

(h) Class 1 products received in packaged form from any source including pool plants, out-of-state handlers, and from the plants of exempt producer-handlers shall be deducted from Class 1 use;

(I) Bulk market milk received from other pool plants shall be deducted in accordance with its assignment pursuant to Subparagraph 802(a)(3);

(j) Milk received from cooperative associations in their capacity as handlers, under Paragraph 105(c) shall be deducted as determined under Subparagraph 802(b)(1);

(k) Solids not fat in dried or condensed form from any approved source used in the production or fortification of Class 1 items shall be deducted from the class originally assigned to solids in that form.

Solids not fat in dried form derived from sources outside of the pool area which have not been assigned a usage classification pursuant to the Food and Agricultural Code of California shall be considered as having a Class 4a classification for the purposes of accounting to the pool;

(l) Packaged Class 1 products on hand at the beginning of the month shall be deducted from Class 1 usage.

(m) The remainder represents the utilization in each class for which the handler will be charged as an obligation to the pool pursuant to Article 9;

Section 804. Brokers or agents may be subject to the same reporting requirements as specified for handlers or may be required to submit other types of reports as determined to be necessary by the secretary.

Section 805. Quota and base milk, as defined in Sections 115 and 116.5, respectively, shall be allocated on a pro rata basis over the market milk produced and shipped to each plant receiving such producer's milk.

Section 806. All records, including source documents, and any work sheets used to support the information required to be reported to the secretary pursuant to this Plan, shall be retained by the handler for a period of three years beginning at the end of the month to which such records pertain. If within such three-year period, the secretary notifies the handler in writing that the retention of such records or specified records is necessary in connection with legal proceedings or a court action specified in such notice, the handler shall retain such records or specific records until further written notification from the secretary. The secretary shall give further written notification to the handler promptly upon termination of the litigation or when the records are no longer required.

## Article 8.1. Adjustment to Handler Obligations for Plant to Plant Transfers

Section 810. Each handler entitled to adjustments for plant to plant transfers, who is located within a supply county, as set forth in Section 300.2 of the Stabilization and Marketing Plans, shall submit a report for each month which shall be postmarked no later than 45 days following the end of the month. Such report shall set forth adjustments to the handler's pool obligation as specified in this article.

Section 811. The following shall be shown for transfers for which a transportation credit is provided for under Section 300.2 of the Stabilization and Marketing Plans:

(a) The pounds and milk fat content of market milk, market skim milk, market cream, and market condensed skim milk transferred in bulk form to each plant located in a county designated as a deficit county under Section 300.2 of the Stabilization and Marketing Plans and the classification assigned under the provisions of Sections 802 and 812 of the Pooling Plan for Market Milk;

(b) The computation of the transportation credit for market milk, market skim milk, and market condensed skim milk (excluding market cream) based on the rates in Section 300.2 of the Stabilization and Marketing Plans.

Section 812. Handlers who transfer market milk and market skim milk (excluding condensed skim and market cream) in bulk form from a pool plant located in a county designated as a supply county to another pool plant located in a county designated as a deficit county, as set forth in Section 300.2 of the Stabilization and Marketing Plans, shall be entitled to request the following adjustments provided there is concurrence by the receiving plant:

(a) Market milk and market skim milk (excluding condensed skim milk and market cream) may be reassigned from the original classification, as provided for in Subparagraph 802(a)(3), to Class 1 provided that the total quantity assigned to Class 1 shall not exceed the total Class 1 inplant usage of the receiving plant;

(1) The additional quantity classified as Class 1 shall be deducted on a pro rata basis from the original Class 2, 3, 4a, and 4b classification. The shipping handler will be charged for Class 1 and credited for Class 2, 3, 4a, and 4b at the shipping handler's market area prices. The receiving handler will be credited for Class 1 and charged for Class 2, 3, 4a, and 4b at the receiving handler's market area prices.

(b) The provisions of this section shall only apply to transfers made during the months of September through the following February.

Section 813.The following shall be shown for transfers for which a credit is requested under Section 812:

(a) The original classification and value assigned to market milk, market skim milk, and market cream transferred in bulk form and the reassigned classification of market milk and skim milk (excluding condensed skim milk and market cream);

(b) The computed value of the original and revised classifications at both the shipping and receiving handler market area prices;

(c) The net adjustment to the pool obligation of both the shipping and receiving handler.

Section 814. The secretary shall verify and correct, if necessary, the adjustments requested under this article and adjust the handler obligation accounts within 60 days after receiving the handler report. The handler adjustments shall be reflected in the fat and solids not fat prices by adjustment of the net pool balance utilized pursuant to Paragraph 902(c) or Section 906, whichever is applicable.

## Article 9. Computation of Handler Obligation and Quota, Base, and Overbase Pool Prices

Section 900. The gross pool obligation of each handler for each of the plants or for a cooperative association acting as a handler under Paragraph 105(c) shall be computed as follows:

(a) Multiply the quantities for each class as determined under Sections 801, 802 and 803 for each plant by the appropriate price announced for such class by the secretary, f.o.b. such handler's plant or the pool or nonpool plant to which diverted;

(b) Multiply the quantities for each class as determined under Sections 801, 802 and 803 for each cooperative association acting as a handler under Paragraph 105(c) by the appropriate price announced for such class by the secretary, f.o.b. the pool or nonpool plant where the milk was first received from producers;

(c) Deduct an amount computed by multiplying the pounds of solids not fat or the skim milk equivalent of condensed skim milk used in fortifying Class 1 products by the appropriate charge allowable for condensing or drying of market skim pursuant to the applicable Stabilization and Marketing Plan.

(d) Deduct from the amounts calculated above, a credit to the handler's obligation for milk received from other sources not included in receipts deducted in Section 802 which shall be determined as follows:

(1) The value based on the receiving plant's inplant usage as defined in Section 130 or the value based on the current month's quota fat price for the milk fat component and the current month's quota solids not fat price plus the pool price modification rate for the value of the solids not fat component, whichever is less.

(2) The value based on subparagraph (d)(1) of this Section or the value based on the current month's overbase fat price for the milk fat component and the current month's overbase solids not fat price plus the pool price modification rate for the value of the solids not fat component, whichever is greater.

Section 901. The total pounds of milk in each class and the pool value thereof shall be computed by the secretary as follows:

(a) (1) Determine the net total pounds of Class 1 milk remaining under Paragraph 803(m) for all handlers and combine into one total sum the obligations of all handlers for such Class 1 milk;

(2) Subtract the net sum of all adjustments computed pursuant to Paragraphs 900(c) which represent modifications in the actual obligation of all handlers for Class 1 milk.

(b) Make similar determinations of the net total pounds and value of each of the other classes of utilization for all handlers;

(c) For those months in which the secretary has implemented the collection of security charges provided for in Chapter 2.5, Part 3, Division 21 of the Food and Agricultural Code, adjust the values of each class as determined under Paragraphs 901(a) and 901(b) by:

(1) Multiplying the total pounds in each class by the rate established in Section 62561 of the Food and Agricultural Code; and

(2) Deducting from the total value of each appropriate class, the amounts calculated under Subparagraph (1). The resulting value for each class shall be utilized in computing the prices under Sections 902, 903 and 904 or 906.

Section 901.5 For those months in which the secretary has implemented a temporary increase in the minimum prices of milk pursuant to Section 62062.2 of the Food and Agricultural Code, adjust the values of each class as determined under Paragraphs 901(a) and (b) by:

(a) Multiplying the total pounds in each class by the temporary price increase for such class as set forth in Section 300.0 of the Stabilization and Marketing Plans. The funds generated shall form a subpool to be distributed equally to all milk production in the pool;

(b) Deducting from the total value of each appropriate class, the amounts calculated under Paragraph (a), hereof. The resulting value for each class shall be utilized in computing the initial prices under Sections 902, 903 and 904.

Section 902. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. No later than the 24th day of each month, the secretary shall compute and announce the quota price for the fat and solids not fat components of quota milk received from producers during the preceding month, in accordance with the following procedures:

(a) Compute the total value of the quota pool and the total value for other source milk by assigning thereto the value or a proportionate share of the total value of the milk fat and solids not fat usages necessary to reflect the total pounds of pool milk which qualified as quota fat and quota solids not fat for all producers, and the total pounds of fat and solids not fat other source milk, excluding the quota fat and quota solids not fat of producer-handlers which was assigned under Paragraph 803(a). The computation of Class 1 solids not fat shall include the value of the fluid component which is contained in the Class 1 skim usage. The values shall be assigned in the following sequence: Class 1, Class 2, Class 3, and then the higher of Class 4a or Class 4b (based on hundredweight value computed at 3.5 percent butterfat and 8.7 percent solids not fat);

(b) Add an amount for each component to the value as necessary to reflect the total amount of regional quota adjusters computed pursuant to Article 9.1;

(c) Add not less than half of the amount on hand in the net pool balance for the respective component of milk;

(d) Subtract from each component the value a figure equal to not more than one percent of the resulting balance, plus or minus any amount necessary to eliminate any fractional amounts of less than one-tenth cent per pound in the price of quota fat and solids not fat;

(e) Divide the resulting sums by the pounds of the components of quota milk plus the pounds of the components of other source milk computed under Paragraph 902(a). The resulting figure shall be the quota pool price for such components.

Section 903. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. No later than the 24th day of each month, the secretary shall compute and announce the base price for the fat and solids not fat components of base milk received from producers during the preceding month, in accordance with the following procedures:

(a) Combine the values computed pursuant to Paragraphs 902(a), and 904(a);

(b) Subtract the total amount obtained under Paragraph (a), hereof, and any security charges calculated under Paragraph 901(c) from the gross pool obligation of all handlers as computed under Section 900(a), (b) and (c);

(c) Divide the remaining value of the milk fat and solids not fat portions of pool milk by the pounds of milk fat and solids not fat, respectively, contained in base milk and round the resulting figure for milk fat and for solids not fat to the nearest one-tenth cent. The prices so computed shall be the base pool prices.

Section 904. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. No later than the 24th day of each month, the secretary shall compute and announce the overbase price for the fat and solids not fat components of overbase milk received from producers during the preceding month, in accordance with the following procedures:

(a) Compute the total value of the overbase pool by assigning thereto the total value or a proportionate share of the total value of the fat and solids not fat components of Class 4a and Class 4b beginning with Class 4a or Class 4b milk, whichever has the lower hundredweight value computed at a 3.5 percent butterfat and 8.7 percent solids not fat basis, as necessary to reflect the total pounds of pool milk which qualified as overbase fat and solids not fat;

(b) Divide the values obtained pursuant to Paragraph (a) of this section by the pounds of fat and solids not fat, respectively, in overbase milk and round the resulting figure for milk fat and for solids not fat to the nearest one-tenth cent. The prices so computed shall be the overbase pool prices.

Section 905. For those months in which the secretary has implemented a temporary increase in the minimum prices of milk pursuant to Section 62062.2 of the Food and Agricultural Code, distribute the subpool funds generated pursuant to Paragraph 901.5(a) by:

(a) Dividing the total value of the temporary price increase for each component of milk by the total pounds of that component which was produced and received from producers participating in the pool during the preceding month to determine the value per pound; and

(b) Adding this value per pound adjustment to the initial quota, base and overbase prices computed under Sections 902,

903 and 904. These prices so adjusted shall be the quota, base and overbase pool prices announced for that month by the secretary.

Section 906. This section applies as long as Section 62750 of the Food and Agricultural Code is in effect. No later than the 24th day of each month, the secretary shall compute and announce the prices for the fat and solids not fat components of quota and nonquota milk received from producers during the preceding month, in accordance with the following procedures:

(a) Compute the total value of pool milk by assigning thereto the total values of the milk fat and solids not fat usages, except the fat and solids not fat exemption of producer-handlers which was assigned under Paragraph 803(a). The total value of pool milk shall include the value of usage for other source milk. The computation of Class 1 solids not fat shall include the value of the fluid component which is contained in the Class 1 skim usage;

(b) The total value of the quota premium pool shall be the sum of the following computations:

(1) Multiply the total solids not fat quota pounds by $0.195 and subtract the total amount of regional quota adjusters, computed pursuant to Article 9.1;

(2) Multiply the total solids not fat of other source milk by $0.195.

(c) Adjust the total fat value, calculated in Paragraph 906(a), by:

(1) Subtracting the fat value of the plant to plant transportation adjustments, calculated pursuant to Article 8.1;

(2) Adding not less than half of the amount on hand in the net pool balance for fat;

(3) Subtracting from the fat value a figure equal to not more than one percent of the resulting balance, plus or minus any amount necessary to eliminate any fractional amounts of less than one-tenth cent per pound.

(d) Divide the adjusted total fat value, as calculated in Paragraph 906(c), by the total quota and nonquota fat pounds plus the total fat pounds of other source milk to determine the quota and nonquota fat prices;

(e) Compute the adjusted solids not fat value from the solids not fat value, calculated in Paragraph 906(a) by:

(1) Subtracting the solids not fat value of the plant to plant transportation adjustments, calculated pursuant to Article 8.1;

(2) Subtracting the total transportation allowance, calculated pursuant to Article 9.2;

(3) Adding not less than half of the amount on hand in the net pool balance for solids not fat;

(4) Subtracting a figure equal to not more than one percent of the resulting balance, plus or minus any amount necessary to eliminate any fractional amounts of less than one-tenth cent per pound;

(5) Subtracting the quota premium pool value from the total solids not fat value, calculated pursuant to Paragraph 906(b).

(f) Divide the adjusted solids not fat value as calculated in Paragraph 906 (e), by the total quota and nonquota solids not fat pounds plus the total solids not fat pounds of other source milk, to determine the nonquota solids not fat price;

(g) Add $0.195 per pound to the solids not fat price calculated in Paragraph 906(f) to determine the quota solids not fat price.

## Article 9.1. Regional Quota Adjuster

Section 910. The secretary shall determine a regional quota adjuster for each market milk producer. Such determination shall be based on the geographical location of the dairy farm. The regional quota adjuster to be in effect at each producer's dairy farm per hundredweight quota milk or per pound of quota solids not fat shall be as set forth below:

(a) A negative 11 cents (-$0.11) per hundredweight, (-$.012644) per pound of quota solids not fat, is assigned to dairy farms located within the counties of: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Madera, Mariposa, Merced, Modoc, Monterey, Nevada, Placer, Plumas, Sacramento, San Benito, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba.

(b) A negative 5 cents (-$0.05) per hundredweight, (-$.005747) per pound of quota solids not fat, is assigned to dairy farms located within the counties of: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, and Sonoma.

(c) A negative 27 cents (-$0.27) per hundredweight, (-$.031034) per pound of quota solids not fat, is assigned to dairy farms located within the counties of: Fresno, Kings, and Tulare.

(d) A negative 20.5 cents (-$0.205) per hundredweight, (-$.023563) per pound of quota solids not fat, is assigned to dairy farms located within the counties of: Kern, San Luis Obispo, and Santa Barbara.

(e) No regional quota adjuster is assigned to dairy farms located within the counties of: Imperial, Inyo, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, and Ventura.

Section 910.1. If after a public hearing the secretary finds that an adjustment in the regional quota adjuster is justified, such change may be made without a referendum if the record clearly shows producer support for the change and that not more than 5 percent of the producers would oppose any such change. A statewide referendum must be held in those cases where there is an indication that more than 5 percent of the producers in the State would oppose the change in the regional quota adjuster.

Section 911. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. The total pounds of milk fat and hundredweight equivalent of solids not fat in quota milk for each producer, who is not a member of a cooperative association, shall be multiplied by the appropriate per hundredweight regional quota adjuster in effect at the producer's dairy farm where the milk was produced.

Section 912. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. For each cooperative association:

(a) Accumulate the amount of daily solids not fat quota allocated to producer-members, whose dairy farms have the same regional quota adjuster;

(b) Calculate the percentage of daily solids not fat quota for each regional quota adjuster by dividing the appropriate amount accumulated under Paragraph (a), hereof, by the cooperative association’s total allocated daily solids not fat quota;

(c) The percentages computed under Paragraph (b), hereof, shall be applied to the cooperative association's total pounds of milk fat and hundredweight equivalent of solids not fat in quota milk to determine the amount of quota milk subject to each regional quota adjuster;

(d) Multiply the amounts determined under Paragraph (c), hereof, by the appropriate per hundredweight regional quota adjuster.

Section 913. This section applies as long as Section 62750 of the Food and Agricultural Code is in effect. The total pounds of quota solids not fat for each producer, who is not a member of a cooperative association, shall be multiplied by the appropriate per pound of solids not fat regional quota adjuster in effect at the producer's dairy farm where the milk was produced.

Section 914. This section applies as long as Section 62750 of the Food and Agricultural Code is effect. For each cooperative association:

(a) Accumulate the amount of daily solids not fat quota allocated to producer-members, whose dairy farms have the same regional quota adjuster;
(b) Multiply the amounts determined under Paragraph (a), hereof, by the appropriate per pound of solids not fat regional quota adjuster.

Article 9.2. Transportation Adjustments for Ranch to Plant Shipments

Section 920. Each producer shall be subject to the provisions of this article and shall, where applicable, participate in the transportation allowances set forth in Paragraph 921.2 and transportation sub-pools, when Section 925 is in effect.

Section 921. Producers, including producer-members of cooperative associations, will receive transportation allowances on shipments to plants which are located within designated areas and which, during the immediately preceding 12-month period, actually processed more than 50 percent of the total pounds of milk processed at the plant location into products other than products classified as Class 4a or Class 4b. For purposes of this section, plant includes one or more pool plants under single ownership within a designated area.

Section 921.1 For any month, producer-members of a cooperative association will receive transportation allowances on shipments to their cooperative plant which is located within a designated area, provided that the cooperative, for the immediately preceding 12-month period, had total direct and derived Class 1 usage equal to or greater than 40 percent of the cooperative's total market milk received or diverted.

Section 921.2 Transportation allowances shall be calculated on the constructive miles from the dairy farm to the location of the plant of first receipt, subject to Sections 921 and 921.1, and shall apply to all pool milk.

The following rates shall be utilized in calculation of the allowances:

(a) For plants located in the Bay Area receiving area, which shall consist of the counties of Alameda, Contra Costa, Santa Clara, Santa Cruz, San Francisco, and San Mateo:

| | | |
|---|---|---|
| (1) | From zero through 99 miles | $0.25 per CWT |
| | Over 99 miles through 199 miles | $0.29 per CWT |
| | Over 199 miles | $0.30 per CWT |

(b) For plants located in the Sacramento receiving area, which shall consist of the County of Sacramento:

| | | |
|---|---|---|
| (1) | From zero through 59 miles | $0.13 per CWT |
| | Over 59 miles | $0.16 per CWT |

(c) For plants located in the Shasta receiving area, which shall consist of the County of Shasta:

| | | |
|---|---|---|
| (1) | From zero through 29 miles | $0.13 per CWT |
| | Over 29 miles through 49 miles | $0.16 per CWT |
| | Over 49 miles | $0.19 per CWT |

(d) For plants located in the North Bay receiving area, which shall consist of the counties of Marin, Solano, and Sonoma:

| | | |
|---|---|---|
| (1) | From zero through 44 miles | $0.18 per CWT |
| | Over 44 miles through 99 miles | $0.25 per CWT |
| | Over 99 miles | $0.29 per CWT |

(e) For plants located in the Southern California receiving area, which shall consist of the counties of Los Angeles, Orange, Riverside and Ventura:

| | | |
|---|---|---|
| (1) | From zero through 89 miles | $0.10 per CWT |
| | Over 89 miles through 120 miles | $0.29 per CWT |
| | Over 120 through 139 miles | $0.48 per CWT |
| | Over 139 miles | $0.62 per CWT |

(f) For Plants located in the San Diego receiving area, which consist of the County of San Diego:

| | | |
|---|---|---|
| (1) | From zero through 89 miles | $0.10 per CWT |
| | Over 89 miles through 139 miles | $0.43 per CWT |
| | Over 139 miles | $0.58 per CWT |

Section 922. The constructive mileage to be used for calculating the transportation allowance for each producer's shipments shall be based on the most current Optional All Points to All Points Table of the Public Utilities Commission of the State of California, as follows:

(a) The distance calculated shall be based on the constructive miles from the mileage basing point nearest the dairy farm to the mileage basing point nearest the plant of first receipt;

(b) In establishing the mileage basing point for either a dairy farm or a plant of first receipt, the mileage basing point which is closest to the actual location when measured on an air-mile basis shall be used.

Section 923. Each month the secretary shall determine for each individual producer the amount of transportation allowance in the following manner:

(a) Determine the total pounds of milk shipped to each plant of first receipt and the constructive miles from the producer's dairy farm to such plant;

(b) For the shipments that qualify for a transportation allowance, select the appropriate rate as set forth in Section 921.2, and multiply the total pounds of milk shipped by such rate;

(c) For each producer, except producer-members of cooperative associations, the amount calculated in Paragraph (b), hereof, shall be credited to the producer's settlement;

(d) For each cooperative association, the amount calculated for individual producer-members in Paragraph (b), hereof, shall be accumulated and credited to the respective cooperative association's settlement.

Section 924. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. Transportation allowances which are computed in accordance with Section 923 shall be charged as follows:

(a) The quota milk produced in the Southern California Transportation Sub-pool region consisting of the counties of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare, and Ventura shall be charged the cost for shipments to plants located in the Southern California receiving area;

(b) The quota milk produced in the Northern California Transportation Sub-pool region consisting of all counties not included in the Southern California Transportation Sub-pool region, shall be charged the cost for shipments to plants located in the Bay Area Receiving Area, the Sacramento Receiving Area, the Shasta Receiving Area and the Solano Receiving Area.

Section 925. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. The Director shall announce, at least 15 days prior to the effective date, transportation sub-pool rates which shall be charged against the quota of producers in each transportation sub-pool region. Such rates shall be based on an estimate of the amount of transportation allowances to be paid by each region and shall be adjusted periodically in order to recover from the quota produced therein all of the costs of each transportation sub-pool region.

Section 926. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. For each producer located within a transportation sub-pool region, except producer-members of a cooperative association, the transportation sub-pool charge shall be calculated each month by multiplying the total monthly quota milk shipped by the rate announced by the secretary pursuant to Section 925. The amount calculated shall be charged to the producer's settlement.

Section 927. This section is not in effect as long as Section 62750 of the Food and Agricultural Code is in effect. For each cooperative association, the transportation sub-pool charges shall be determined each month as follows:

(a) Accumulate the amount of daily solids not fat quota allocated to producer-members, whose dairy farms are located within the same transportation sub-pool region;

(b) Calculate the percentage of daily solids not fat quota for each transportation sub-pool region by dividing the appropriate amount accumulated under Paragraph (a), hereof, by the cooperative association's total allocated daily solids not fat quota;

(c) The percentages computed under Paragraph (b), hereof, shall be applied to the cooperative association's total pounds

of milk fat and hundredweight equivalent of solids not fat in quota milk to determine the amount of quota milk subject to each rate announced pursuant to Section 925;

(d) Multiply the amounts determined under Paragraph (c), hereof, by the appropriate rate announced pursuant to Section 925;

(e) The amounts determined in Paragraph (d), hereof, shall be accumulated and charged to the respective cooperative association's settlement.

Section 928. This section is in effect as long as Section 62750 of the Food and Agricultural Code is in effect. Transportation allowances which are computed in accordance with Section 923 shall be deducted from the total solids not fat revenue before any price for quota and nonquota solids not fat is computed.

## Article 10. Reports and Payments to Producers and Equalization of Returns

Section 1000. All persons acting as handlers pursuant to Paragraph 105(a) shall be responsible for assuring that each individual producer from whom pool milk was received directly at the pool plant or diverted therefrom to pool and nonpool plants during the preceding month receives a written report on or before the last day of the month on forms acceptable to the secretary, which report shall show all relevant information concerning the payments due such persons including the following:

(a) The amount of milk received from the producer or diverted, according to the location of the plant where first received;

(b) The amount of product paid for (in each component) as quota milk, base milk, and overbase milk, at the respective prices, as determined for each plant by the secretary;

(c) The dollar value and applicable rate of each authorized deduction made from the gross payment;

(d) Any premiums above the quota, base, or overbase prices fixed by the secretary showing basis of computation and amount;

(e) Adjustments for previous months, if any;

(f) Other information as may be required by the secretary.

Section 1001. Each handler other than those defined in Paragraphs 105(b) and (c) shall pay individual producers from whom milk is received directly at the pool plant or diverted by such handler to pool and nonpool plants at no less than the rates specified and no later than the dates indicated:

(a) On or before the 15th day of the month, each handler shall pay each producer the approximate net value for milk received or diverted during the last half of the preceding month based on the quota, base, and overbase prices announced for the month before the milk was received or diverted;

(b) On or before the last day of the month, each handler shall make final payment to each producer for the total value of milk received or diverted during the preceding month, excluding pool milk received by nonpool plants as a direct purchase from individual producers, at not less than the rates specified below subject to adjustments, where applicable for transportation allowances and transportation charges specified in Article 9.2, and subject to deductions for advance payments made under this paragraph and Paragraph (a), hereof, for applicable charges for hauling the milk from ranch to plant and for assignments or other proper charges authorized in writing by the producer or required under Chapters 1, 2, and 3 of the Food and Agricultural Code, plus a payment for the approximate value of the milk based on the quota, base, and overbase prices for the preceding month for milk received or diverted during the first 15 days of the month:

(1) Quota milk delivered during the preceding month shall be paid for at the quota price announced by the secretary in accordance with Section 902, as adjusted for the regional quota adjuster pursuant to Article 9.1;

(2) Base milk delivered during the preceding month shall be paid for at the base price announced by the secretary in accordance with Section 903;

(3) Overbase milk delivered during the preceding month shall be paid for at the overbase price announced by the secretary in accordance with Section 904.

(c) Estimated prices may be used in lieu of prior months quota, base and overbase prices when making approximate payments specified in Paragraphs (a) and (b), provided the procedure used to calculate those estimates has been reviewed and approved by the Pool Manager. If a handler chooses to use an estimating procedure, the method shall be used until the Pool Manager approves a change.

(d) Any handler qualified pursuant to Paragraph 105(a) who receives milk, skim milk, or cream at its pool plant(s) from handlers, as defined pursuant to Paragraphs 105(b) and (c), shall pay such handlers no less than the applicable minimum class prices for such milk, skim milk, or cream no later than the dates specified:

(1) For milk received during the first 15 days of the month on or before the 28th day of such month based on the appropriate class prices, provided the class price announced for the preceding month shall be used for

any class for which the current month's price has not yet been announced by the secretary;

(2) For milk received during the period from the 16th to the end of the month on or before the 13th day of the following month at no less than the appropriate class prices subject to any adjustment necessary due to overpayments or underpayments resulting from the use of tentative prices under Subparagraph (1), hereof.

(e) Each handler operating a nonpool plant as defined in Section 111 that receives market milk as a direct purchase from producers or from handlers defined pursuant to Paragraphs 105(b) and (c) shall pay for such milk at no less than the classified prices established by the Stabilization and Marketing Plans. The total combined inplant and derived usage of the nonpool plant shall be allocated among all producers each month.

Section 1002. The secretary shall establish and maintain two separate funds known as the Producer Equalization Funds, one for milk fat and the other for solids not fat. The secretary shall deposit into the appropriate fund the amounts received from handlers pursuant to Sections 1003 and 1005 and shall make payments out of the appropriate fund pursuant to Sections 1004 and 1005. Should this Plan be terminated at any time after it has become effective, any remaining balance in these funds shall be distributed on a pro rata basis as determined by the secretary to or for the account of producers who are supplying milk to handlers at the time of such termination.

Section 1003. Each handler shall make payment to the secretary on or before the second day after receiving notice of any amount due pursuant to this section of the amount computed as follows:

(a) The secretary shall compute the total of the amounts due from such handler to individual producers at the rates specified in Subparagraphs 1001(b)(1), (2), and (3), as adjusted for regional quota adjusters and transportation allowances, pursuant to Articles 9.1 and 9.2, and transportation sub-pool charges, if in effect;

(b) Subtract the sum computed pursuant to Paragraph (a), hereof, from the gross pool obligation of such handler computed pursuant to Section 900, if such pool obligation is larger than the amount owed to producers. The resulting figure shall be known as the handler's net pool obligation;

(c) In the event any handler fails to pay to the secretary, the net financial obligation to the pool resulting from its operation on or before the 15th day of the second month following the month for which the obligation was incurred, the secretary may add to such unpaid balance interest at the rate of 1 percent (1%) per month computed from the first day of the second month following the month for which the obligation was incurred until such obligation is paid. Such obligation shall be reduced by the following:

(1) Payments received on or before the 15th of the month; and

(2) Any credits resulting from adjustments to previous obligations.

The interest charged under this section shall be added to the milk fat and solids not fat Producer Equalization Funds on a 1 to 2.5 ratio, respectively. The handler shall not be entitled to pass such interest charge on to the producers.

(d) Except as provided in Paragraphs (e) and (f) of this section, the obligation of any handler to pay money required to be paid pursuant to this section shall terminate two years after the last day of the month during which the secretary receives the handler's report of receipts and utilization and disposition of which such obligation is based, unless within such two-year period the secretary notifies the handler in writing that such money is due and payable. Written notice shall be complete upon mailing to the handler's last known address the following information:

(1) The amount of the obligation;

(2) The month on which the obligation is based; and

(3) The account for which it is to be paid.

(e) If a handler fails or refuses to make available to the secretary all records required under this Plan, the secretary may notify the handler in writing as provided in Paragraph 1003(d), of such failure or refusal. If the secretary so notifies the handler, the two-year period in respect to such obligation shall not begin to run until the first day of the month following the month during which all records pertaining to the obligation were made available to the secretary;

(f) A handler's obligation under this Plan shall not be terminated for any transaction involving fraud or willful

concealment of a fact on the part of the handler against whom the obligation is being imposed;

(g) Unless the handler gives notice within the applicable two-year period, the obligation of the secretary to pay a handler any money the handler claims to be due under the provisions of this Plan shall terminate two years after the end of the month during which the market milk involved in the claim was received.

Section 1004. If the gross pool obligation of the handler, as computed under Section 900, is less than the amount owed producers under Subparagraphs 1001(b)(1), (2) and (3)the secretary shall make payment of any difference to such handler from funds available in the Producer Equalization Funds on the 28th day after the end of the month or as soon thereafter as funds are available, provided that if adequate funds are not available in the appropriate fund on such date, a proportionate distribution of available funds shall be made to all handlers entitled to receive payments under this section.

Section 1005. Whenever audit by the secretary of a handler's books or records or other examination of the operation reveals that the reports of such handler or payments made pursuant to this Plan were in error, the secretary shall promptly notify such handler of the nature and amount of the error. If the error occurred in the process of a handler's direct payment to producers and caused underpayments by such handler to such producers, the handler shall correct the payment no later than 15 days after receiving such notice. If the error caused incorrect settlement with the secretary, the monetary amount resulting from such audit or other examination shall be adjusted through the handler's obligation account for the month following the notification by the secretary of adjustment amount.

Any amount assessed as determined pursuant to Article IV of the Stabilization and Marketing Plan shall be adjusted through the handler's obligation account for the month following the notification by the secretary of the assessed amount.

The net pool balance to be used pursuant to Subparagraph 906(c)(2), when in effect, or Paragraph 902(c), when in effect, in calculating current pool prices shall be increased or decreased to reflect the adjustments of this section.

Section 1006. Each handler, subject to the provisions of this Plan, shall deduct as a fee from payments made to producers for all pool milk received or diverted each month an amount determined pursuant to Section 62718 of Chapter 3 of the Food and Agricultural Code. The amount of such fee shall be paid to the secretary on or before the 30th day following the last day of the month in which such market milk was received or diverted. In the event the handler fails to pay to the secretary this fee, pursuant to Section 62718 of Chapter 3 of the Food and Agricultural Code, the handler shall pay a penalty amount which shall be equal to 10 percent of such unpaid fee. All monies received under the provisions of this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

Section 1007. For purposes of ascertaining the correctness of reports submitted, the secretary shall have access to and may inspect the records of handlers pursuant to Section 61442 of Chapter 1 of the Food and Agricultural Code.

Section 1008. The secretary shall transfer from the Producer Equalization Funds to the Milk Producers Security Trust Fund provided for in Chapter 2.5, Part 3, Division 21 of the Food and Agricultural Code the amount of security charges computed under Paragraph 901(c) within 30 days after the final pool settlement has been mailed to handlers, as provided for under Section 1004.

## Article 11. Authority and Duties of a Pool Manager

Section 1100. A pool manager shall act for the secretary to the extent authorized by the secretary under the law in effectuating the terms and provisions of this Plan and shall perform any or all the duties authorized by the secretary in the administration of this Plan. Such duties shall include, but are not limited to, the following:

(a) Maintain records and reports which accurately reflect the operation of the Plan, including the receipt and disbursement of all money handled;

(b) Verify all reports and payments by each handler, including cooperative associations, subject to the provisions of this Plan through audit of the books, records and accounts of such handler, and the examination of operations or other verification deemed relevant;

(c) Notify each handler of such information as is necessary in determining the values for all milk utilized and the obligation of each handler under Sections 1003 and 1005 of this Plan;

(d) Announce the prices for quota milk, base milk, and overbase milk, and when Sections 924, 925, 926 and 927 are in effect, the transportation rate for quota milk in effect within each transportation sub-pool region;

(e) Notify each handler of the rate of deduction from producer payments determined by the secretary to be necessary to cover the cost of administering this Plan and of the time and method of making such deductions;

(f) At the pool manager's discretion, publicly announce the name of any handler who has not filed the proper reports pursuant to Article 8, or made payment as required pursuant to Sections 1001, 1003 and 1005, herein. Any handler may be excluded from the computations involved in determining quota and base prices if this should become necessary due to the handler's failure to comply with the payment provision specified in this paragraph;

(g) After the secretary has computed a producer's initial allocation or change of allocation of production base and pool quota, each of the following shall be notified of the change:

(1) The individual producer;

(2) The handler who is responsible for payment; or

(3) The cooperative association of which the producer is a member or patron.

Section 1101. The pool manager may from time to time issue interpretive bulletins, letters, instructions on completing monthly reports, and other documents and instructions to assist in the interpretation of and compliance with this plan.

## Article 12. Modification or Supersedence of Chapter 1 and Chapter 2

Section 1200. Under authority of Section 62724 of Chapter 3 of the Food and Agricultural Code, this Plan may modify or supersede provisions of Chapter 1 and Chapter 2, Part 3, Division 21 of the Food and Agricultural Code, when such modification or supersedence is determined by the secretary to be necessary to effect the purposes of Chapter 3 commencing with Section 62700 of the Food and Agricultural Code.

## Article 13. Severability

Section 1300 The provisions of this plan are severable. If any section, subdivision, paragraph, sentence, clause, or phrase of this plan should be declared or held unconstitutional or invalid for any reason, such unconstitutionality or invalidity shall not affect the validity of any other provision of this plan.