

§ 1304.2

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handler must notify the compact commission on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the compact commission.

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to §1301.14 and the fluid cream product definition pursuant to §1301.15.

(d) All fluid milk products used to produce nonfat dry milk.

[62 FR 29643, May 30, 1997, as amended at 65 FR 16121, Mar. 27, 2000]

§ 1304.2 Classification of transfers and diversions

(a) *Transfers and diversions to pool plants.* Fluid milk products transferred or diverted from a pool plant to another pool plant or partially regulated plant shall be classified as Class I milk unless the operators of both plants request not to classify it Class I. In either case, the classification of such transfers or diversion shall be subject to the following conditions;

(1) The fluid milk products classified in Class I shall be limited to the amount of fluid milk products, respectively, remaining in Class I at the transferee-plant or diverted-plant.

(2) [Reserved]

(b) *Transfers and diversions to producers-handlers.* Fluid milk products transferred or diverted from a pool plant to a producer-handler shall be classified as Class I.

(c) *Transfers to plants located outside of the regulated area.* Fluid milk products (not including bulk transfers of skim milk, condensed milk, bulk milk transferred and classified Class I by a federal market order and milk processed (i.e., pasturized, homogenized, or blended) transferred in bulk from a pool plant to a plant located outside of the regulated area, except a partially

regulated plant having Class I disposition in the regulated area, the volume of milk (including milk diverted pursuant to §1301.23(d)) in excess of the percentage of total producer receipts, pursuant to paragraph (d) of this section, shall be excluded from producer milk. The transferred milk excluded pursuant to this paragraph shall be prorated to all sources of milk received at this plant unless the operator of the plant selects the sources to be excluded. This paragraph will not apply to any pool plant in which the facilities are temporarily unusable because of fire, flood, storm, equipment failure or similar extraordinary circumstances completely beyond the pool plant operator's control; provided, the operator of the pool plant notifies the Commission within two (2) days following such occurrence;

(d) Milk transferred in excess of the following percentages of total producer receipts shall be excluded from producer milk:

	Percent
January, February, July, December	10
March, April, May, June	13
August, September, October, November	8

[62 FR 29643, May 30, 1997, as amended at 63 FR 65524, Nov. 27, 1998]

§ 1304.3 General classification rules.

In determining the classification of producer milk pursuant to §1304.4, the following rules shall apply:

(a) Each month the compact commission shall correct for mathematical and other obvious errors all reports filed pursuant to §1303.1 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to §1301.9(d) the pounds of skim milk and butterfat, respectively, in Class I in accordance with §§1304.1 and 1304.2;

(b) The classification of producer milk for which a cooperative association is the handler pursuant to §1301.9(d) shall be determined separately from the operations of any pool plant operated by such cooperative; and