Agricultural Marketing Service, USDA § 1131.7

or Federal) reservations, installations, institutions, or other similar establish-
ments if any part thereof is within any of the listed states or political subdivi-
sions:

Arizona

All of the State of Arizona.

[71 FR 25502, May 1, 2006]

§ 1131.3 Route disposition.

See §1000.3.

§ 1131.4 Plant.

See §1000.4.

§ 1131.5 Distributing plant.

See §1000.5.

§ 1131.6 Supply plant.

See §1000.6.

§ 1131.7 Pool plant.

Pool Plant means a plant or unit of
plants specified in paragraphs (a) through (e) of this section, but excluding
a plant specified in paragraph (g) of
this section. The pooling standards des-
dcribed in paragraphs (c) and (d) of
this section are subject to modification pursuant to paragraph (f) of this sec-
tion.

(a) A distributing plant, other than a
plant qualified as a pool plant pursuant
to paragraph (b) of this §1131.7(b)
of any other Federal milk order, from
which during the month 25 percent or
more of the total quantity of fluid milk
products physically received at the
plant (excluding concentrated milk re-
ceived from another plant by agree-
ment for other than Class I use) are
disposed of as route disposition or are
transferred in the form of packaged
fluid milk products to other distrib-
uting plants. At least 25 percent of
such route disposition and transfers
must be to outlets in the marketing
area.

(b) Any distributing plant located in
the marketing area which during the
month processed at least 25 percent of
the total quantity of fluid milk prod-
ucts physically received at the plant
(excluding concentrated milk received
from another plant by agreement for
other than Class I use) into ultra-pas-
teurized or aseptically-processed fluid
milk products.

(c) A supply plant from which 50 per-
cent or more of the total quantity of
milk that is physically received at
such plant from dairy farmers and han-
dlers described in §1000.9(c), including
milk that is diverted as producer milk
to other plants, is transferred to pool
distributing plants. Concentrated milk
transferred from the supply plant to a
distributing plant for an agreed-upon
use other than Class I shall be excluded
from the supply plant’s shipments in
computing the plant’s shipping per-
centage.

(d) A plant located within the mar-
keting area and operated by a coopera-
tive association if, during the month,
or the immediately preceding 12-month
period ending with the current month,
35 percent or more of the producer milk
of members of the association (and any
producer milk of nonmembers and
members of another cooperative asso-
ciation which may be marketed by the
cooperative association) is physically
received in the form of bulk fluid milk
products (excluding concentrated milk
transferred to a distributing plant for
an agreed-upon use other that Class I)
at plants specified in paragraph (a), (b),
or (h) of this section either directly
from farms or by transfer from supply
plants operated by the cooperative asso-
ciation and from plants of the coop-
orative association for which pool
plant status has been requested under
this paragraph subject to the following
conditions:

(1) The plant does not qualify as a
pool plant under paragraph (a), (b), (c),
or (h) of this section or under com-
parable provisions of another Federal
order; and

(2) The plant is approved by a duly
constituted regulatory agency for the
handling of milk approved for fluid
consumption in the marketing area.

(e) Two or more plants operated by
the same handler and located in the
marketing area may qualify for pool
plant status as a unit by together
meeting the requirements specified in
paragraph (a) of this section and sub-
ject to all of the following additional
requirements:
§ 1131.7

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products, and must be located in a pricing zone providing the same or lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit must be filed by the handler with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month to month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) The applicable shipping percentages of paragraphs (c) and (d) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

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

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for 3 consecutive months;

(4) A plant located outside any Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater route disposition in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in such marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under the order in this part, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

(h) Any distributing plant, located within the marketing area as described on May 1, 2006, in § 1131.2:

(1) From which there is route disposition and/or transfers of packaged fluid milk products in any non-Federally regulated marketing area(s) located within one or more States that require handlers to pay minimum prices for raw milk provided that 25 percent or more of the total quantity of fluid milk...
products physically received at such plant (excluding concentrated milk received from another plant by agreement for other than Class I use) is disposed of as route disposition and/or is transferred in the form of packaged fluid milk products to other plants. At least 25 percent of such route disposition and/or transfers, in aggregate, are in any non-Federally regulated marketing area(s) located within one or more States that require handlers to pay minimum prices for raw milk. Subject to the following exclusions:

(i) The plant is described in §1131.7(a), (b), or (e);

(ii) The plant is subject to the pricing provisions of a State-operated milk pricing plan which provides for the payment of minimum class prices for raw milk;

(iii) The plant is described in §1000.8(a) or (e); or

(iv) A producer-handler described in §1131.10 with less than three million pounds during the month of route disposition and/or transfers of packaged fluid milk products to other plants.

(2) [Reserved]

[64 FR 48010, Sept. 1, 1999, as amended at 71 FR 25502, May 1, 2006; 71 FR 28249, May 16, 2006]

§ 1131.8 Nonpool plant.

See §1000.8.

§ 1131.9 Handler.

See §1000.9.

§ 1131.10 Producer-handler.

Producer-handler means a person who operates a dairy farm and a distributing plant from which there is route disposition in the marketing area, from which total route disposition and packaged sales of fluid milk products to other plants during the month does not exceed 3 million pounds, and who the market administrator has designated a producer-handler after determining that all of the requirements of this section have been met.

(a) Requirements for designation. Designation of any person as a producer-handler by the market administrator shall be contingent upon meeting the conditions set forth in paragraphs (a)(1) through (5) of this section. Following the cancellation of a previous producer-handler designation, a person seeking to have their producer-handler designation reinstated must demonstrate that these conditions have been met for the preceding month.

(1) The care and management of the dairy animals and the other resources and facilities designated in paragraph (b)(1) of this section necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) are under the complete and exclusive control, ownership and management of the producer-handler and are operated as the producer-handler’s own enterprise and its own risk.

(2) The plant operation designated in paragraph (b)(2) of this section at which the producer-handler processes and packages, and from which it distributes, its own milk production is under the complete and exclusive control, ownership and management of the producer-handler and is operated as the producer-handler’s own enterprise and at its sole risk.

(3) The producer-handler neither receives at its designated milk production resources and facilities nor receives, handles, processes, or distributes at or through any of its designated milk handling, processing, or distributing resources and facilities other source milk products for reconstitution into fluid milk products or fluid milk products derived from any source other than:

(i) Its designated milk production resources and facilities (own farm production);

(ii) Pool handlers and plants regulated under any Federal order within the limitation specified in paragraph (c)(2) of this section; or

(iii) Nonfat milk solids which are used to fortify fluid milk products.

(4) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler’s operation; nor is any other handler so associated with the producer-handler’s operation.

(5) No milk produced by the herd(s) or on the farm(s) that supply milk to the producer-handler’s plant operation is: