§ 1124.1

The terms, definitions, and provisions in part 1000 of this chapter apply to this part 1124. In this part 1124, all references to sections in part 1000 refer to part 1000 of this chapter.

DEFINITIONS

§ 1124.2 Pacific Northwest marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

IDAHO COUNTIES
Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone.

OREGON COUNTIES

WASHINGTON
All of the State of Washington.

§ 1124.3 Route disposition.

See §1000.3.
Agricultural Marketing Service, USDA

§ 1124.7

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through February shall continue to so qualify in each of the following months of March through August, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of milk shipments;

(2) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (g) of this section unless it has been a pool supply plant during each of the immediately preceding 3 months.

(d) A manufacturing plant located within the marketing area and operated by a cooperative association, or its wholly owned subsidiary, if, during the month, or the immediately preceding 12-month period ending with the current month, 20 percent or more of the producer milk of members of the association (and any producer milk of nonmembers and members of another cooperative association 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 than Class I use) to a pool distributing plant or is a route disposition in the marketing area of fluid milk products processed and packaged at such plant:

(1) The plant does not qualify as a pool plant under paragraph (a), (b), (c), or (e) of this section or under comparable 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) Any distributing plant, located within the marketing area as described on May 1, 2006, in § 1124.2:

(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 § 1124.7(a) or (b);

(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 §1124.10 with less than three million pounds during the month of route dispositions and/or transfers of packaged fluid milk products to other plants.

(f) A system of two or more plants identified in §1124.7(d) operated by one or more cooperative handlers may qualify for pooling by meeting the
above shipping requirements subject to
the following additional requirements:

(1) The cooperative handler(s) establish-
ing the system submits a written
request to the market administrator
on or before the first day of the month
for which the system is to be effective
requesting that such plants qualify as
a system. Such request will contain a
list of the plants participating in the
system in the order, beginning with the
last plant, in which the plants will be
dropped from the system if the system
fails to qualify. Each plant that quali-
ifies as a pool plant within a system
shall continue each month as a plant in
the system until the handler(s) estab-
lishing the system submits a written
request before the first day of the
month to the market administrator
that the plant be deleted from the sys-
tem or that the system be discon-
tinued. Any plant that has been so de-
leted from a system, or that has failed
to qualify in any month, will not be
part of any system. In the event of an
ownership change or the business fail-
ure of a handler that is a participant in
the system, the system may be reor-
ganized to reflect such a change if a writ-
ten request to file a new marketing
agreement is submitted to the market
administrator; and

(2) If a system fails to qualify under
the requirement of this paragraph, the
handler responsible for qualifying the
system shall notify the market admin-
istrator of which plant or plants will be
deleted from the system so that the re-
main ing plants may be pooled as a sys-
tem. If the handler fails to do so, the
market administrator shall exclude
one or more plants, beginning at the
bottom of the list of plants in the sys-
tem and continue up the list as nec-
essary until the deliveries are suffi-
cient to qualify the remaining plants
in the system.

(g) The applicable shipping percent-
age 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 uneco-
nomic shipments. Before making such
a finding, the market administrator
shall investigate the need for adjust-
ment either on the market administra-
tor’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 to be effective. If the
investigation shows that an adjust-
ment of the shipping percentages
might be appropriate, the market ad-
ministrator 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 ef-
fective date.

(h) 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 mar-
keting area and qualified pursuant to
paragraph (a) of this section which
meets the pooling requirements of an-
other Federal order, and from which
more than 50 percent of its route dis-
position has been in the other Federal
order marketing area for 3 consecutive
months;

(4) A plant located outside any Fed-
eral order marketing area and qualified
pursuant to paragraph (a) of this sec-
tion that meets the pooling require-
ments 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 sec-
tion that meets the pooling require-
ments of such other Federal order and
does not have a majority of its route
distribution in this 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 Fed-
cral order marketing area; and

(6) A plant qualified pursuant to
paragraph (c) of this section which also
meets the pooling requirements of an-
other Federal order and from which
greater qualifying shipments are made
to plants regulated under the other
Federal order than to plants regulated under the order in this part,
Agricultural Marketing Service, USDA

§ 1124.10 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 processing 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:

(i) Subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program under the authority of a State government maintaining marketwide pooling of returns, or

(ii) Marketed in any part as Class I milk to the non-pool distributing plant of any other handler.

(b) Designation of resources and facilities. Designation of a person as a producer-handler shall include the determination of what shall constitute milk production, handling, processing, and distribution resources and facilities, all of which shall be considered an integrated operation, under the sole and exclusive ownership of the producer-handler.

(1) Milk production resources and facilities shall include all resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk which are solely owned, operated, and which the producer-handler has designated as a source of milk supply for the producer-