

Lyon, Marshall, Miami, Morris, Nemaha, Ottawa, Pottawatomie, Republic, Riley, Saline, Shawnee, Wabaunsee, Washington, Wyandotte.

§ 1064.3 Route disposition.

Route disposition means a delivery (either direct or through a distributing facility such as a distribution point, a plant store, a vendor, or vending machine), other than a delivery to a pool plant or a nonpool plant, of a fluid milk product classified as Class I milk.

§ 1064.5 Distributing plant.

Distributing plant means a plant from which during the month there is route disposition in the marketing area of Grade A fluid milk products that are processed or packaged in such plant.

§ 1064.6 Supply plant.

Supply plant means a plant from which a Grade A fluid milk product is shipped during the month to a pool plant.

§ 1064.7 Pool plant.

Except as provided in paragraph (d) of this section, *pool plant* means:

(a) A distributing plant from which during the month or the immediately preceding month there is:

(1) Route disposition, except filled milk, in the marketing area that is not less than 15 percent of the total Grade A fluid milk products, except filled milk, received at such plant, including producer milk diverted to other plants pursuant to § 1064.13 by the handler operating such plant; and

(2) Route disposition, except filled milk, that is not less than the following percentage of the total Grade A fluid milk products, except filled milk, received at such plant, including producer milk diverted to other plants pursuant to § 1064.13 by the handler operating such plant: *Provided*, That the combined receipts and disposition of each handler who operates more than one distributing plant, each of which meets the performance requirements of paragraph (a)(1) of this section, shall be used in determining the percentages specified in this subparagraph:

(i) April through June, 35 percent;

(ii) September and October, 50 percent; and

(iii) All other months, 45 percent.

(b) A supply plant from which during the month 50 percent or more of the Grade A milk received at such plant from dairy farmers and handlers described in § 1064.9(c) (including milk diverted from such plant pursuant to § 1064.13(c) but excluding milk diverted to such plant pursuant to § 1064.13(c)) is shipped from such plant as fluid milk products, except filled milk, to and received at pool distributing plants, subject to the following conditions:

(1) A supply plant which is a pool plant under this paragraph during each month of September through January shall be pooled for the following months of February through August if the required percentage pursuant to this paragraph is not met, 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 shipments;

(2) The shipping percentage specified in this paragraph may be increased or decreased temporarily for any of the months of September through January up to 20 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. For any of the months of February through August, a minimum shipping percentage of up to 20 percent may be established by the Director for all pool supply plants that are qualified as a pool plant pursuant to paragraph (b)(1) of this section. Before making such a finding the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping requirements pursuant to this subparagraph, such plant shall be a nonpool plant for such month if the operator of the plant files

a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1064.30,

(c) A supply plant operated by a cooperative association in any month in which the member producer milk of such cooperative association received at pool distributing plants during the current month, or immediately preceding 12-month period ending with the current month, either by transfer from such supply plant or directly from member producers' farms, is 50 percent or more of such cooperative's total member producer milk. Such direct deliveries from member producers' farms shall be considered as having been received first at the plant of such cooperative association for the purpose of determining the qualification of such plant as a pool plant pursuant to this paragraph. If two or more cooperative associations desire to qualify a supply plant operated by one of the associations as a pool plant on the basis of their combined deliveries to pool distributing plants and have filed a written request to this effect with the market administrator on or before the first day of the month the agreement is effective, such a supply plant shall be a pool plant during the month if the above specified percentage of the total member producer milk of such cooperative associations was received at pool distributing plants during the current month, or the immediately preceding 12-month period ending with the current month.

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

- (1) A producer-handler plant;
- (2) A distributing plant or supply plant operated by a State educational institution;
- (3) A plant from which there is route disposition in the marketing area of less than an average of 600 pounds per day;
- (4) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which during the month a greater volume of fluid milk products, except filled milk, was disposed of as route disposition in such other marketing area and to pool plants qualified on the

basis of route disposition in such other marketing area than was so disposed of in this marketing area except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its fluid product disposition, except filled milk, is made in the above described manner in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(5) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which during the month a greater volume of fluid milk products, except filled milk, was disposed of as route disposition in this marketing area and to pool plants qualified on the basis of route disposition in this marketing area than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order;

(6) A supply plant meeting the pooling requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order, and which has greater qualifying shipments to plants regulated under such other order than are made under this order, unless during any month of February through August automatic pool plant status for such plant is retained under this part for such month; and

(7) A supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant also qualified as a pool plant pursuant to paragraph (c) of this section.

[39 FR 16260, May 8, 1974, as amended at 45 FR 3878, Jan. 21, 1980]

§ 1064.8 Nonpool plant.

Nonpool plant means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) *Other order plant* means a plant that is fully subject to the pricing and