

Northeast Dairy Compact Commission

§ 1301.12

paragraph are not subject to the payment provisions of §§ 1307.3 and 1308.1.

[62 FR 29639, May 30, 1997, as amended at 65 FR 16120, Mar. 27, 2000]

§ 1301.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in the regulated area during the month;

(b) Receives milk solely from own farm production or receives milk that is fully subject to the pricing and pooling provisions of any Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month;

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products; and

(e) Provides proof satisfactory to the compact commission that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing and packaging operations are the producer-handler's own enterprise and at its own risk.

[65 FR 16120, Mar. 27, 2000]

§ 1301.11 Producer.

Producer means:

(a) A dairy farmer who produces milk in the regulated area that is moved to a pool plant or a partially regulated plant, having Class I distribution in the regulated area;

(b) A dairy farmer who produces milk outside of the regulated area that is moved to a pool plant, provided that on more than half of the days on which the handler caused milk to be moved from the dairy farmer's farm in every December since 1996, all of that milk was physically moved to a pool plant in the regulated area. Or: to be considered a qualified producer, on more than half of the days on which the handler caused milk to be moved from the

dairy farmer's farm during the current month and for five (5) months subsequent to July of the preceding calendar year, all of that milk must have moved to a pool plant, provided that the total amount of milk at a pool plant eligible to qualify producers who did not qualify in every December since 1996, shall not exceed the total bulk receipts of fluid milk products less:

(1) Producers receipts as described in paragraph (a) of this section and producer receipts as described in paragraph (b) of this section who are qualified based on every December since 1996;

(2) The volume of milk excluded from producer milk pursuant to §§ 1301.23 (d) and (e), and 1304.2 (c) and (d).

(c) A dairy farmer who produces milk outside of the regulated area that is moved to a partially regulated plant and allocated to Class I pursuant to Section 1304.5. However, the term shall not include:

(1) A producer handler;

(2) A dairy farmer who is a local or state government that has non-producer status for the month under section §1301.13(c);

(3) A dairy farmer who is a governmental agency that is operating a plant from which there is route disposition in the regulated area;

(4) Dairy farmer milk received at a pool plant or a partially regulated plant which is rejected and segregated in the handler's normal operations for receiving milk and which receipts are accepted and disposed of by the handler as salvaged product rather than milk.

[62 FR 29639, May 30, 1997, as amended at 62 FR 62825, Nov. 25, 1997; 63 FR 65523, Nov. 27, 1998; 65 FR 16121, Mar. 27, 2000]

§ 1301.12 Producer milk.

Producer milk means milk that the handler has received from producers and is physically moved to a pool plant in the regulated area or is diverted pursuant to §1301.23(d). The quantity of milk received by a handler from producers shall include any milk of a producer that was not received at any plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month. Such

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milk shall be considered as having been received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month, except that in the case of a cooperative association in its capacity as a handler under §1301.9(d), the milk shall be considered as having been received at a plant in the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of the milk of the cooperative association in such capacity was moved during the current month or the most recent month.

[63 FR 65523, Nov. 27, 1998]

§ 1301.13 Exempt milk.

Exempt milk means:

(a) Fluid milk products received at a pool plant in bulk from a non pool plant to be processed and packaged, for which an equivalent quantity of package fluid milk products is returned to the operator of the non pool plant during the same month, if the receipt of bulk fluid milk products and return of packaged fluid milk products occur during an interval in which the facilities of the non pool plant at which the fluid milk products are usually processed and packaged are temporarily unusable because of fire, flood, storm or similar extraordinary circumstances completely beyond the non pool plant operator's control;

(b) Packaged fluid milk products received at a pool plant from a non pool plant in return for an equivalent quantity of bulk fluid milk products moved from a pool plant for processing and packaging during the same month, if the movement of bulk fluid milk products and receipt of package fluid milk products occur during an interval in which the facilities of the pool plant at which the fluid milk products are usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the pool plant operator's control;

(c) Milk received at a pool plant in bulk from the dairy farmer who produced it, to the extent of the quantity of any packaged fluid milk products returned to the dairy farmer, if:

(1) The dairy farmer is a State or local government that is not engaged in the route disposition of any of the returned products, and

(2) The dairy farmer has by written notice to the compact commission and the receiving handler, elected non-producer status for a period of not less than 12 months beginning with the month in which the election was made and continuing for each subsequent month until canceled in writing, and the election is in effect for the current month.

(d) All fluid milk product disposed outside of the regulated area.

(e) All fluid milk distributed by handlers in eight-ounce containers under open and competitive bid contracts for the school milk contract year with School Food Authorities in New England, as defined by 7 CFR 210.2, to the extent that the school authorities can demonstrate and document that the costs of such milk have been increased by operation of the Compact over-order obligation. In no event shall such increase exceed the amount of the Compact over-order obligation. Documentation of increased costs shall be in accordance with a memorandum of understanding entered into between the Compact Commission and the appropriate state agencies for the school milk contract year. The memorandum of understanding shall include provisions for certification by supplying vendor/processors that their bid and contract cost structures do in fact incorporate the over-order obligation, in whole or in part, and provisions for defining the components of cost structure to be provided in support of such certification. The memorandum shall also establish the procedure for providing reimbursement to the school food authorities, including the scheduling of payments and the amount to be escrowed by the Commission to account for such payments.

[62 FR 29639, May 30, 1997, as amended at 63 FR 10110, Feb. 27, 1998; 64 FR 34514, June 28, 1999]

§ 1301.14 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than nine