

**§ 1301.13**

**7 CFR Ch. XIII (1-1-01 Edition)**

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

percent butterfat, that are intended to be used as beverages. Such products include, but are not limited to: Milk, fat-free milk, low fat milk, light milk, reduced fat milk, milk drinks, eggnog and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated or reconstituted. As used in this Part, the term *concentrated milk* means milk that contains not less than 25.5 percent, and not more than 50 percent, total milk solids.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk/skim milk, sweetened condensed milk /skim milk, formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically-sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk equivalent in any modified product specified in paragraph (a) of this section that is greater than an equal volume of an unmodified product of the same nature and butterfat content.

[65 FR 16121, Mar. 27, 2000]

**§ 1301.15 Fluid cream product.**

*Fluid cream product* means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing nine percent or more butterfat, with or without the addition of other ingredients.

**§ 1301.16 Filled milk.**

*Filled milk* means any combination of nonmilk fat (or oil) with skimmed milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milk fat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than six percent nonmilk fat (or oil).

**§ 1301.17 Cooperative association.**

*Cooperative association* means any cooperative marketing association of producers which the Secretary of Agri-

culture of the United States determines is qualified under the provisions of the Capper-Volstead Act, has full authority in the sale of milk of its members and is engaged in marketing milk or milk products for its members. A federation of two or more cooperatives incorporated under the laws of any state will be considered a cooperative association if all member cooperatives meet the requirements of this section.

[65 FR 16121, Mar. 27, 2000]

**§ 1301.18 Person.**

*Person* means any individual, partnership, corporation, association, or other business unit.

**§ 1301.19 Route disposition.**

*Route disposition* means distribution of Class I milk by a handler to retail or wholesale outlets, which include vending machines but do not include plants or distribution points. The route disposition of a handler shall be attributed to the processing and packaging plant from which the Class I milk is moved to retail or wholesale outlets without intermediate movement to another processing and packaging plant.

**§ 1301.20 Distributing plant.**

*Distributing plant* means a processing and packaging plant.

**§ 1301.21 Supply plant.**

*Supply plant* means a plant at which facilities are maintained and used for washing and sanitizing cans and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled, or it is a plant to which milk is moved from dairy farmers' farms in tank trucks.

**§ 1301.22 State dairy regulation.**

*State dairy regulation* means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

**§ 1301.23 Diverted milk.**

*Diverted milk* means milk, other than that excluded under § 1301.11 from being considered as received from a producer, that meets the conditions set forth in paragraph (a) or (b) of this section and