

§ 1005.8

7 CFR Ch. X (1-1-08 Edition)

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 date 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) Any distributing plant other than a plant qualified as a pool plant pursuant to paragraph §1005.(7)(a) or paragraph (b) of this section or §_____.7(b) of any other Federal milk order or §1005.(7)(e) or §1000.(8)(a) or §1000.(8)(e); located within the marketing area as described on May 1, 2006, in §1005.2, 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 exclusion:

(1) 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;

(2) A producer-handler described in §1005.10 with less than three million pounds during the month of route dis-

position and/or transfers of packaged fluid milk products to other plants.

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

(1) A producer-handler plant;

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

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(5) 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 such other order than are made to plants regulated under the order in this part, or such plant has automatic pooling status under such other order; and

(6) That portion of a pool 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 writing by the handler and must be approved by the market administrator.

[64 FR 47960, Sept. 1, 1999, as amended at 71 FR 25497, May 1, 2006; 71 FR 28249, May 16, 2006]

§ 1005.8 Nonpool plant.

See § 1000.8.

§ 1005.9 Handler.

See § 1000.9.

§ 1005.10 Producer-handler.

Producer-handler means a person who: