

a greater volume of fluid milk products (except filled milk) is moved to pool distributing plants than is moved to plants qualified as fully regulated plants under such other order on the basis of route disposition in the other marketing area.

[38 FR 4649, Feb. 20, 1973, as amended at 39 FR 33786, Sept. 20, 1974; 42 FR 38585, July 29, 1977; 46 FR 27903, May 22, 1981; 52 FR 30888, Aug. 18, 1987; 59 FR 33419, June 29, 1994; 60 FR 45575, Aug. 31, 1995]

§ 1040.8 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 class pricing and pooling provisions of another order issued pursuant to the Act.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined under this or any other Federal order issued pursuant to the Act.

(c) *Partially regulated distributing plant* means a nonpool plant that is neither an other order plant, a producer-handler plant nor an exempt plant and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) *Unregulated supply plant* means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a fluid milk product is shipped during the month to a pool plant.

(e) *Exempt plant* means a plant, other than a plant described in paragraph (b) of this section, located outside the marketing area from which there is route disposition within the marketing area, but from which the route disposition wholly or partly within the marketing area averages less than 600 pounds per day for the month, and from which no milk is transferred to other handlers. Only §§ 1040.32 and 1000.5 of this chapter shall apply to an exempt plant.

§ 1040.9 Handler.

Handler means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to producer milk diverted in accordance with § 1040.13 for the account of such association;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant (such milk shall be considered as having been received by such cooperative association at a location identical to that of the pool plant to which it is delivered);

(d) Any person who operates a partially regulated distributing plant;

(e) Any producer-handler; and

(f) Any person in his capacity as the operator of an other order plant from which fluid milk products are distributed on routes in the marketing area or shipped to a pool plant.

[38 FR 4649, Feb. 20, 1973, as amended at 39 FR 33786, Sept. 20, 1974]

§ 1040.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a milk plant from which there is route disposition in the marketing area and who received fluid milk products only from his own production or by transfer from a pool plant and no milk products other than fluid milk products for reconstitution into fluid milk products; and

(b) Provides proof that: (1) The care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts by transfer from a pool plant); and (2) the operation of the processing business is the personal enterprise and risk of such person.

§ 1040.11 [Reserved]

§ 1040.12 Producer.

Producer means any person, other than a producer-handler under any Federal order, who produces milk approved by any duly constituted regulatory agency for fluid consumption in the marketing area, which is moved to a pool plant or diverted pursuant to § 1040.13 from a pool plant to another