

**DETERMINATIONS, FINDINGS, CONCLUSIONS AND ORDER NUMBER 102 OF
THE SECRETARY OF FOOD AND AGRICULTURE**

In Regard to the Public Hearing Held on November 3rd, 2003

DETERMINATIONS

A duly noticed public hearing was held by the Department of Food and Agriculture (Department) on November 3rd, 2003, to consider adjustments to the Pooling Plan for Market Milk. The Department called the hearing after receiving a petition from the Alliance of Western Milk Producers, a dairy cooperative trade association. Testimony and evidence pertinent to proposed changes were received into the hearing record; additional material was submitted by means of post-hearing briefs following the close of the hearing. The Secretary's decision is based on both the hearing record and on the Panel Report to the Secretary of Food and Agriculture.

In weighing all available information, the Department has determined that changes to the current Pooling Plan for Market Milk are warranted and necessary to continue to effectuate the declared purposes of the Food and Agricultural Code.

Based on the hearing record and Panel Report, the Secretary accepts the Panel's recommendation to restrict the means by which milk processing plants can depool. Furthermore, the Secretary accepts the Panel's recommendations to restrict the means by which producer milk can associate with pool plants or nonpool plants. Finally, the Secretary accepts the Panel recommendations to permit handlers to use price estimation procedures for approximate payments to producers as alternatives to using prior month's pool prices.

FINDINGS AND CONCLUSIONS

The Department has considered all relevant information, including, but not limited to, testimony and items of evidence submitted by all parties to these proceedings, whether specifically mentioned herein, in rendering these findings. The Department has considered all relevant provisions set forth in the Food and Agricultural Code, whether specifically mentioned herein, in rendering these findings. These include, without exception, all provisions and declarations regarding public interest considerations.

It is hereby found and concluded that:

- The current Pooling Plan for Market Milk now in effect no longer conforms to the standards prescribed in nor tend to effectuate the purposes prescribed in Chapters 2 and 3 of Division 21 of the Food and Agricultural Code.
- The proposed changes in the Panel Report regarding the ability of milk processing plants to depool, of producer milk to be associated with pool or nonpool plants and of handlers using alternative means to calculate approximate payments to producers will tend to effectuate the purposes of said Chapters 2 and 3.

- The new Pooling Plan for Market Milk conforms to the standards prescribed in and tend to effectuate the purposes of said Chapters 2 and 3.

ORDER

It is hereby ordered that the Pooling Plan for Market Milk (Order Number One Hundred and Two) become effective on and after January 1, 2004.

ORIGINAL SIGNED BY

Bob Wynn, Acting Undersecretary
California Department of Food and Agriculture

Signed and entered in
the Office of the Secretary
of Food and Agriculture at
Sacramento, California,
On December 18, 2003.