

order # 8

CALIFORNIA DEPARTMENT OF AGRICULTURE
BUREAU OF MILK POOLING

FINDINGS RELATIVE TO AMENDMENTS TO THE POOLING PLAN FOR FLUID MILK

The following findings and conclusions are based on material issues raised at a public hearing which was conducted on October 27, 1969, in Los Angeles, and continued on November 3, and November 21, 1969, in Sacramento. At this hearing, all persons affected by the Milk Pooling Plan were given the opportunity to be heard and testimony and evidence, both oral and documentary were offered and received. The purpose of this hearing was to consider amendments to the Pooling Plan for Fluid Milk currently in effect.

The following issues were presented for consideration and/or revision:

1. Proration of manufacturing grade milk.
2. Reclassification of powdered skim used for fortifying Class 1 products.
3. Area of usage adjustment.
4. New definition.
5. Credit for over quota milk shipments to lower price areas.
6. Direct diversion control.
7. Base and quota used for loan collateral.
8. Location differential.
9. Service charge for movement of over quota milk.
10. Classification for out-of-state sale.
11. Price and location differential uniformity.

1. Proration of Manufacturing Grade Milk

At the inception of the Pooling Plan currently in effect it was deemed necessary in order to achieve equity for all concerned that the manufacturing grade milk usage be prorated between the Class 2, Class 3, and Class 4 uses within a plant at the same percentage rate that market grade milk is so utilized within the same plant. At the hearing just concluded there was a request that the proration system be eliminated and the manufacturing grade milk be utilized within a plant at the discretion of the distributors. The order does not rescind this proration requirement. Testimony and evidence did not indicate a substantive change from the testimony which was received and from which the findings dated June 27, 1969 were promulgated. The reasons for maintaining the proration system are substantially the same as given in the findings of the Department of that date.

2. Reclassification of Powdered Skim Used For Fortifying Class 1 Products

At the present time, milk solids from out-of-state sources are not subject to accountability within the pool when such solids are utilized in fortifying Class 1 products. However, when domestic solids which are initially assigned as Class 4 usage are used for fortification of Class 1 products, they account to the pool as a Class 1 product and the distributor so using the solids is granted a $5\frac{1}{2}\phi$ reclassification adjustment. The new order treats all Grade A solids either produced domestically or from out-of-state sources in the same manner making both sources equally accountable to the pool. It is the intent of this change in the Pooling Plan to create an equitable market for all solids utilized in fortifying Class 1 products regardless of source.

3. Area of Usage Adjustment

There was a request that there be granted from the pool a credit or a debit to a bottling distributor when the producer price in the market of ultimate utilization is different than the price paid to producers in the location of the bottling plant. At the present time, the plant of first receipt governs price to be paid to producers. It is at this point that the distributor takes title to the fluid milk and the producers obligation or control over the milk ceases. The proposal would in effect reinstate the condition of marketing which was in existence prior to the advent of the Pooling Plan which in effect established a minimum price to be paid to producers at the point of ultimate usage regardless of where it is produced, how far it was transported to be processed, or how far it is retransported after reprocessing. This proposal would tend to re-establish the market system formerly in existence thus nullifying the plant of first receipt concept placed in effect by the Pooling Plan. The new order does not incorporate the requested change but maintains the Pooling Plan in this respect as it is currently being operated. Testimony and evidence at the hearing was not sufficiently different than testimony and evidence at previous hearings in regard to the plant of first receipt pricing to change the position of the Department from the position taken from the findings of the Department of September 8, 1968.

4. New Definition

There was a request that the Department define more clearly what is meant by "to receive" milk into a plant as versus milk which is in transit. Since plant of first receipt governs the point of sale it is important that the act of receiving milk be readily definable. Such a definition is incorporated in the Pooling Plan.

5. Credit For Over Quota Milk For Lower Priced Areas

There was a request that a pool credit equal to the location differential be granted to "proven" over quota milk going as surplus from a high priced area to a low priced area. This credit would be to offset the location differential at the receiving plant in the area of lower price. This request is not incorporated in the Pooling Plan. To grant such a request would facilitate the movement of milk from deficient areas of supply to areas of production where ample supply is already available. This would be basically contrary to efficient and economical marketing practices.

The pool should not bare the cost of such distressed milk moving contrary to the economically sound marketing. To grant such a request would be to permanently burden the pool with the cost of transporting surplus milk when periodically produced within a deficient production area.

6. Direct Diversion Control

The order incorporates for the first time a restriction on direct diversion of a producer's milk by a regular contracting pool plant to a "non pool" manufacturing plant. This provision prevents continuous diversion to a non pool plant or plants with the obvious intention on the part of the handlers of guaranteeing a regular supply of market milk for non fluid uses. The restriction is minimal. The producer's milk may be directly diverted for 15 days within a calendar month to a non pool plant before any penalty is incurred. If the producer's milk is diverted more than 15 days in a calendar month, during the months of August through November, the producer may not participate in the quota pool for the remainder of the days in that calendar month. This is a restriction placed upon the producer whose milk is so diverted by his distributor. The producer suffers the loss of pool quota pool participation. It is therefore incumbent upon him to make necessary adjustments to see that he does not sustain this loss of revenue on a continuing basis.

7. Base and Quota Used For Loan Collateral

Representatives of lending agencies requested that the Department establish a system of collaboration whereby pool quota may be pledged as collateral on a dairy loan. This request is incorporated into the Pooling Plan by requiring that producers who use their pool quota as collateral must notify the Pooling Bureau in such a manner as is prescribed by regulation of the Director. It is the intention of this amendment that the Bureau make available current information without incurring obligation or liability for such information, and only when such information is of mutual benefit to the lender and to the producer involved.

8. Location Differential

There were requests for changes in the location differential for three regions in the State. Since the inception of the Pooling Plan there have been major reductions in the rates charged for transportation of bulk milk. These changes have been occurring at an accelerated rate which is difficult for the Department to accurately assess. It is apparent however that the rates have decreased in sufficient magnitude to honor the request for reducing the location differentials in a selective manner. Minor reductions have been recognized in the Pooling Plan.

9. Service Charge For Movement of Over Quota Milk

There was a request that a charge for producer services be made mandatory when a producer-handler makes over quota milk available to another handler. This would presumably facilitate releasing of over quota milk from the producer-handler's plant to another processing handler and the

cost of this service would be borne by the pool. This request was not incorporated in the Pooling Plan. The Department recognizes the need for moving milk in areas where it is produced to areas where it is needed. Some system of incentives may be necessary to insure this movement. The requirement that the entire pool be charged for the service of moving over quota milk in those areas where such movement is necessary is not justified.

10. Classification For Out-Of-State Sale

There was a request that California handlers who package and sell Class 1 fluid milk products in markets outside of California where such markets establish a lower usage classification for that product be permitted to account for such usage at a lower usage price. Currently handlers account for all uses based on the applicable price at the plant first receiving the milk. The Pooling Plan is not amended to accommodate this request. It is not equitable to require producers to receive less for their milk than they could receive in their local market when a distributor by his choice chooses to compete in a market which offers a lower rate to producers.

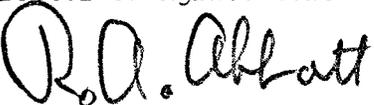
11. Price and Location Differential Uniformity

There was a request that the location differentials established under the Pooling Plan reflect the marketing area Class 1 price differentials and that if necessary this be accomplished by establishing production price zones within a marketing area. At the present time, most marketing areas have several location differentials which are applicable dependent on the location of the milk plants within such marketing areas. This request is not incorporated in the Pooling Plan. It would not be possible as a result of this consolidated hearing to make changes in marketing area boundaries or to establish zones with the marketing areas. The Bureau will make further studies which may indicate a need for realignment of marketing area boundaries. Such boundary changes would require individual marketing area hearings.

Signed at Sacramento, California on December 19, 1969.

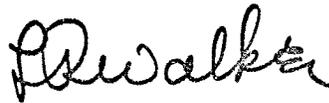
Jerry W. Fielder
Director of Agriculture

By



R. A. Abbott, Milk Economist
Bureau of Milk Stabilization

By



L. R. Walker, Acting Chief
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FINDINGS OF THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF AGRICULTURE
UPON THE POOLING PLAN FOR FLUID MILK, AS AMENDED

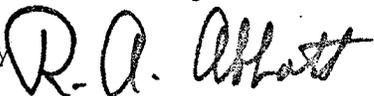
A public hearing to consider amendments to the Pooling Plan for Fluid Milk, as Amended, was duly and regularly called and held in Los Angeles, California, on October 27, 1969, continued in Sacramento, California, on November 3, 1969, and concluded in Sacramento, California, on November 21, 1969, under the provisions of Chapter 3, Part 3, Division 21 of the Agricultural Code, full and proper notice of this hearing was given to all producers, producer-distributors and distributors of record with the California Department of Agriculture, who may be subject to the provisions of the Pooling Plan by mail in accordance with the provisions of Section 62184 of said Code.

At said hearing, all persons were afforded an opportunity to be heard and testimony and evidence, both oral and documentary, were offered and received.

After due deliberation upon and full consideration of the facts and evidence adduced, the Director of the California Department of Agriculture hereby finds the following:

1. The Pooling Plan for Fluid Milk, as Amended, is no longer in conformity with the standards prescribed in Chapter 3, and will not tend to effectuate the purposes of Chapter 3 without amendment.
2. The amendments are necessary to effectuate the purposes of Chapter 3 and will accomplish the same within the standards prescribed in Chapter 3.
3. The Pooling Plan for Fluid Milk, as Amended, and identified as the Pooling Plan for Fluid Milk, as Amended, and made effective by Milk Pooling Order Number Eight (8) effective January 1, 1970, is necessary to accomplish the purposes of Chapter 3 and will accomplish the purposes of Chapter 3 within the standards therein prescribed.

Jerry W. Fielder
Director of Agriculture

By 

R. A. Abbott, Milk Economist
Bureau of Milk Stabilization

Dated: December 19, 1969