

2012-2-13

FINDINGS AND CONCLUSIONS 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 held on May 28, 1970, at Sacramento, California. This hearing was for the purpose of giving consideration to nonsubstantive amendments to the Pooling Plan currently in effect.

Nature of Hearing

It was the purpose of the Department to respond to a resolution presented to the Director by the Milk Pooling Producer Review Board which recommended to the Director that the Pooling Plan require all shipments to a plant of first receipt, whether a pool or a nonpool plant, to carry a pro rata amount of production base and pool quota based on the shipments to each plant. Additionally, the Department desired to strengthen provisions relative to pool plant requirements which would tend to assure that all quota milk be made available to the market when needed.

The Department developed a proposal which was discussed prior to the hearing with the Milk Pooling Producer Review Board and with distributor representatives. The purpose of presenting the proposal to both producers and distributors prior to the hearing was to gain as wide an understanding for needed changes as possible. The material issues presented by the Department or by industry at the hearing are as follows:

1. "Pool plant" requirement modifications.
2. Regulation of all market milk shipments to pool or nonpool plants.
3. Adjustment of location differentials.
4. Modify requirements for base and quota transfers with respect to cooperatives.
5. Clarify status of certain exempt producer-distributors.
6. Shrinkage allowance.
7. Premiums on overquota milk.
8. Adjustment for area of usage.
9. Technical accounting procedural changes.

FINDINGS

Pool Plant Requirement Modifications

The existing pool plant requirements need modification so as to clarify pool plant requirements and to establish a third plant classification. The present order identifies a "pool plant" and a "nonpool plant". The amended order should add the classification for a "nonqualifying pool plant". The "nonqualifying pool plant" category should apply to a "pool plant" which has temporarily been disqualified as a "pool plant" because it has not fully satisfied the qualifications of a "pool plant". It should be a probationary status. The requirement for a "pool plant"

should be amended in part by shifting the percentage requirements for shipment of quota milk as Class 1 during the month of August from a 40 percent shipment requirement to a 20 percent requirement. Under the existing Plan, in order to maintain pool plant status, a plant must dispense with not less than 40 percent of the pool milk as Class 1 during August through November, and 20 percent from December through July. Testimony and evidence indicated that there was need for diversion through the month of August and the month of August should, therefore, be included in the 20 percent category. Testimony at the hearing was unanimous for this change.

The option of the Director to change the above percent requirements should be changed so that the Director may increase or decrease the percent requirements by 20 percent instead of the 10 percent now authorized. This flexibility is necessary so that the Director can stimulate the flow of pool milk into fluid uses when required.

Regulation of All Shipments of Fluid Milk to Pool or Nonpool Plants

Regulation of all fluid milk shipments to pool or nonpool plants is in response to the resolution of the Milk Pooling Producer Review Board. It is designed to require the producer who is participating in the pool to participate in the pool with his total production. Under existing regulation, it is possible for a producer to participate in the pool through a pool plant which receives his pool quota milk, and commit the remainder of his production (base and overbase) to nonpool plants. Some contracts have been offered by nonpool plants which would return to such a producer Class 2 usage for all his base and overbase. In time, this would tend to remove Class 2 usage from the pool.

The Pooling Plan should require all shipments to a plant of first receipt, whether a pool or nonpool plant, to carry a pro rata amount of production base and pool quota based on the shipments to each plant and also require that nonpool plants with no Class 1 sales, who receive such market grade milk, report and account to the pool in the same manner as a pool plant. However, such a nonpool plant should qualify as receiving only overbase milk. This provision would require a pro rata assignment of production base and pool quota over the total receipts of both market and manufacturing milk in the receiving plant. There was objection by distributor representatives to such proration. Distributor representatives stated that they did not feel there was justification under the Pooling Act to so regulate manufacturing milk. This provision should be made effective on January 1, 1971, which will give ample preparation to make the provision operative.

Adjustment of Location Differentials

Location differentials in two regions of the pooling area should be adjusted. A variation in location differentials over a large marketing area where the producer Class 1 price is the same has caused unnecessary shifting by producers from one distributor to another. Much testimony was given to support location differentials that would cover larger zones. It is necessary to adjust location differentials in the newly-formed Tulare-Kings Marketing Area which would be more uniform. This area is a common procurement area for the supply plants located within the district. Location differentials in the Gustine, Dos Palos, Los Banos, and Hughson Areas need to be more uniform since this also is a common procurement area. The establishment of more uniform location differentials for these two districts will discourage unnecessary switching by producers from one handler to another to gain a few cents per hundredweight advantage.

Base and Quota Transfers for Producers

Adjustment should be made to align the requirements for transfer of base and quota within cooperatives as for producers not affiliated with a cooperative. The proposal of the Department going into the hearing was to make requirements for both cooperative producers and producers outside of cooperatives the same. However, a slight modification which would allow cooperatives some greater degree of latitude is acceptable. Such modifying proposal was favorable to all witnesses who testified on the proposal.

Clarification of Producer-Distributor Status

A new Section should be added to the Pooling Plan which would allow any producer-distributor who sold his production base and pool quota and yet meets the requirements of an exempt producer-distributor to be exempt from the Pooling Plan. If such a producer-distributor does not continue to qualify for his exempt position, he should be considered a new producer subject to the restrictions required for new producers.

Shrinkage Allowance

One representative from a 105(c) handler requested that a shrinkage allowance be granted which would, in effect, lower the minimum price paid by a distributor purchasing from such a handler. The amount would reflect the value of milk lost in transfer and handling. This request should not be incorporated into the new Plan since the amount of shrinkage cannot be fully verified. Such an allowance could not be limited only to 105(c) handlers, but would also have to be extended to any handler who conveyed, transported, or otherwise transported milk in a similar fashion.

Premiums on Overquota Milk

Several cooperative representatives suggested that premiums be paid by the pool to any supply plant for any milk which is shipped in excess of pool quota. Though the concept of premiums for special servicing may have merit, there is question as to whether the total pool should bear the cost of such premiums or just those producers who are involved in servicing the area where premiums would be necessary. It would be difficult to determine the need for a premium to be paid to one supply plant without first having current information as to what pool quota other supply plants may have on hand. In addition, ample quota should be available at all times since the Director has originally assigned 10 percent more pool quota than was necessary to supply Class 1 needs. The Director also has the power to assign additional quota for the market. Since provisions for pool plant status should be strengthened and since the Director has the power to assign additional quota, it would be unnecessary that the market would require premiums in order to make sufficient quota available. Spot or irregular shipments which are due to erroneous procurement should be paid for by the distributor requiring special servicing.

Adjustment for Area Usage

Distributors' representatives again requested that there be an adjustment to compensate for area of usage and restated the request made during hearings last November. It is recognized that distributors who serve the same area, but who serve under different conditions of market servicing may have different raw product costs. No new testimony or additional information was presented at this hearing and, therefore, the findings establishing the plant of first receipt concept should not be revised.

Amendments to Accounting Procedures

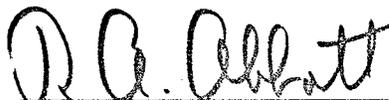
The existing Pooling Plan was modified in several technical areas to accommodate the changes to strengthen Pooling Plan provisions and to assign on a pro rata basis of all market milk going to both pool and nonpool plants. In addition, several technical changes were made.

Jerry W. Fielder
Director of Agriculture

By



L. R. Walker, Chief
Bureau of Milk Stabilization



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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 Sacramento, California, on May 28, 1970, 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 Ten (10) effective August 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: July 24, 1970