

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 July 24, 1973, in 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 petitions from representatives of producers and distributors, both written and oral, requesting an opportunity to present testimony and evidence contingent to the amendment of the Pooling Plan. The issues which were presented during the course of the hearing were as follows:

1. The inclusion of the Siskiyou Marketing Area into the Pool Plan Area.
2. The establishment of new pool plant performance requirements.
3. Revision of the "new producer" entry requirements.
4. The reinstatement of "systems pooling."
5. Minor administrative and technical amendments proposed by the Department.

FINDINGS

Inclusion of the Siskiyou Marketing Area into the Pooling Plan Area

When the California Milk Pooling Plan Program was established, there were provisions allowing certain areas to remain outside of the Pool Plan Area if the producers in the area so elected. The Siskiyou Marketing Area producers so elected and the area was not included in the original Pooling Plan.

Early this year the producers located in the Siskiyou area who ship to the only processing plant in the area determined that it would be to their best interest to come under the Pooling Program and petitioned the Department to call a hearing for this purpose.

At the hearing there was unanimous approval for the inclusion of the Siskiyou Marketing Area into the Pool Plan area. This action should be taken by the Department.

Data presented at the hearing by the Department shows that the Pool will gain Class 1 usage by including the Siskiyou area. Local producers will tend to initially lose Class 1 usage to the pool because they have had an increase in Class 1 usage since the base forming period on which pool quota and base will be assigned.

New Pool Plant Performance Requirements

Prior to this finding, the penalty for a pool plant that did not meet the performance requirements specified for "pool plant" status in the Pooling Plan was to be put on a "nonqualifying pool plant" status or lose pool plant status altogether.

The loss of "pool plant" status is too stringent a penalty to be practically applied. Also this penalty is contradictory. The Plan provides loss of "pool plant" status as a penalty yet requires that any plant which receives market grade milk and has Class 1 sales must be a pool plant.

The existing penalties place the burden on the producer supplying the plant while the producer has no control over plant decisions.

A new system of monetary penalties applied against the plant which does not meet prescribed performance requirements should be established. Such monetary penalties should only be applied after advance warning from the Director that noncompliance will result in the penalty. The penalty should not be automatic but should apply when it has been determined by the Director that adequate supplies of market milk may not be available for Class 1 usage.

The monetary penalties should be paid to the pool by the offending handler and should be based on the difference between the handlers Class 1 usage and the prescribed percentage performance requirements. The amount of the penalty should be computed by the difference between the Class 1 price and the price for the next succeeding lower classes in which the handler has usage.

The down grading of a "pool plant" to a "nonqualifying pool plant" should be maintained as a penalty. Through this method a handler that, in the judgement of the Director, does not make all of its quota milk available for Class 1 usage and does not meet required performance standards, may function as a pool plant yet only receive a settlement from the pool at the overbase price regardless of utilization.

Revision of "New Producer" Performance Requirements

One of the concepts of the pooling program is that the program should be designed for producers who are in the dairy business and plan on continuing in production. The Pool Plan was not developed for speculators or for "in and outers" seeking to profit from the tenants of the Act.

There was some concern expressed at the hearing that the "new entry" provisions were insufficient without minor modification to protect the legitimate aspirations of those bonafide producers seeking entry into the Pool Program.

The Pooling Plan should be modified to require continuing production by an applicant for base and quota from the base forming period up to the awarding of new quota. This provision will tend to assure that the applicant is a full-time dairy producer and not one that has produced for a short time during the base forming period or one that has gone out of business after the base forming period has passed.

Since many applicants for new quota and base are Grade B producers they are required to convert from manufacture milk production to market milk production. The present plan does not have a cutoff date for this conversion to take place. In order to administer the issuance of base and quota with reasonable efficiency, there should be a requirement that all conversions to market milk status and commencement of shipments of fluid milk to a pool handler must be accomplished by December 31 of the year in which the new quota is issued.

Reinstatement of Systems Pooling

The present Pooling Plan provides for "system pooling" by a handler who operates more than one plant or by persons operating independently owned plants who wish to enter into a voluntary agreement with each other in order to coordinate milk shipments to plants that use the milk for Class 1 purposes.

The approval for such "system pooling" is discretionary on the part of the Director. At the present time the Director has rescinded all approvals for any "system pooling."

Much discussion and testimony in favor of reinstating the "system pooling" privilege was presented at the hearing.

In order to prevent inefficient movement of milk from occurring, it is advisable that the "system pooling" be reestablished. However, the conditions laid down for the establishment of a "system pool" should assure that each plant must have a minimal prescribed performance in supplying quota milk for Class 1 needs.

The following are the criteria that the Director will use if "system pooling" is reinstated:

1. The request for consolidating several plants must be in writing from the handlers concerned.
2. The handlers are responsible for supplying sufficient supporting data in the request for complete evaluation by the Director. The consolidation of plants may be on a regional, geographical, or other basis. Organizations may establish more than one group of plant consolidations.
3. Plants within the requested consolidation must have established a historical relationship during the months of September, October, and November 1972. The requirements for a system pool must relate to these months.

4. Within each consolidation group one or more plants must have utilized at least 70% of all market milk receipts (direct shipments and receipts from other plants) in the processing of Class 1 products at the plant location. Those plants meeting this requirement will be considered the primary plant or plants in the consolidation group.
5. All other plants within the requested consolidation must have shipped at least 10% of all their market milk received during the performance period to the primary plant.
6. Approval by the Director must be received by the applying plants before the consolidation will be recognized.

Administrative and Technical Amendments

A series of administrative and technical amendments were proposed by the Department. The proposal was mailed along with the notice of hearing.

At the hearing there was unanimous approval of the Department's proposal by those who testified.

The proposal as presented should be incorporated into the Pooling Plan.

All other subjects and issues testified to were considered and acted on appropriately.

C. B. Christensen
Director of Food and Agriculture

By

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Dated: September 24, 1973

FINDINGS OF THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF FOOD AND 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 July 24, 1973, under the provisions of Chapter 3, Part 3, Division 21 of the Food and 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 Food and 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 Food and 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 Twenty-One (21) effective October 1, 1973, is necessary to accomplish the purposes of Chapter 3, and will accomplish the purposes of Chapter 3 within the standards therein prescribed.

C. B. Christensen
Director of Food and Agriculture

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Dated: September 24, 1973