

FINDINGS AND CONCLUSIONS OF THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE ON MATERIAL ISSUES PRESENTED FOR CONSIDERATION FOR AMENDMENT OF THE POOLING PLAN FOR MARKET MILK

WHEREAS, a public hearing on the Pooling Plan for Market Milk was held in Sacramento, California on October 4, 1983; and

WHEREAS, pursuant to the provisions of Chapter 2 and Chapter 3, Part 3, Division 21 of the Food and Agricultural Code, full and proper notice of said hearing was regularly given by mail in accordance with the provisions of Section 61994 of said Code, to all producers, producer-handlers, and handlers of record with the California Department of Food and Agriculture, who may be subject to the provisions of the Pooling Plan for Market Milk; and

WHEREAS, said hearing was called upon the Director's own motion; and

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

WHEREAS, the Director hereby adopts the concurrent Economic Basis for Findings and Conclusions on Material Issues; and

WHEREAS, as set forth with more particularity in the administrative record of the proceedings herein, based on evidence at said hearing, and as supplemented in the record thereafter, it is hereby found and concluded that amendments should be made to the Pooling Plan for Market Milk in the following manner:

1. Add the counties of Fresno, Kings and Tulare to the Southern California Transportation Sub-pool.
2. Reduce the regional quota adjuster in the counties of Fresno, Kings and Tulare from -28¢ to -27¢ per hundredweight.
3. Increase the transportation allowance for milk moving ranch-to-plant from Fresno, Kings and Tulare counties to Southern California from 21¢ per hundredweight to 34¢ per hundredweight.
4. Incorporate language that would require future amendments to the regional quota adjusters to be subject to the referendum procedure except where there is agreement among producers that the change be made without a referendum.
5. Qualify the milk of cooperative members who ship to their own plants in deficit areas for the appropriate transportation allowance if the cooperative supplies 40% of its total supply to Class 1 usage.
6. Delete obsolete language from the Pooling Plan for Market Milk; and

WHEREAS, the above-mentioned amendments are not substantive in nature, they shall be adopted without the necessity of a referendum.

NOW, THEREFORE, after due deliberation upon the full consideration of the facts and evidence adduced, the Director of the California Department of Food and Agriculture hereby finds that the Pooling Plan for Market Milk would more fully conform with the standards prescribed in said Chapter 3 if amendments of a non-substantive nature were made and that such amendments to such Pooling Plan for Market Milk are proper and necessary in order that said Plan shall more fully conform with the standards prescribed in, and shall continue to tend to effectuate the purposes of said Chapter 3; and

The Director further finds that amendments to the Pooling Plan for Market Milk are necessary to more fully accomplish the purposes of said Chapter 3 and hereby determines that said amendments will tend to accomplish the purposes of said Chapter 3 within the standards therein prescribed.

All testimony and items of evidence submitted by all parties to these proceedings, whether or not specifically mentioned herein, have been considered in rendering these findings and conclusions.

Clare Berryhill
Director of Food and Agriculture

By *V. L. Shahbazian*

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Date 10/20/83

ECONOMIC BASIS FOR FINDINGS AND CONCLUSIONS OF THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE ON MATERIAL ISSUES PRESENTED FOR CONSIDERATION FOR AMENDMENTS TO THE POOLING PLAN FOR MARKET MILK

Background

A major amendment of the Pooling Plan for Market Milk, especially with respect to the milk movement standards, was promulgated by the Department and approved by referendum by milk producers as prescribed under law. This amendment was effectuated by Order Number 39. The Pooling Plan has been amended subsequently by Orders Number 40, 41, and 42. However, the basic tenets of Order No. 39 were not changed by these later amendments.

Following a thorough review of Order No. 39 and its major amendments, it was determined by the Department that non-substantive amendments should be made. A hearing was called for this purpose on the Director's own motion in Sacramento, on October 4, 1983, to address the minor changes needed to be made to Order No. 39. The hearing was for the purpose of receiving testimony and evidence with regard to these non-substantive amendments.

Issues

The non-substantive or minor changes proposed by the Department were attached to the notice of hearing and mailed to all interested parties. The issues were to:

1. Add the counties of Fresno, Kings and Tulare to the Southern California transportation subpool.
2. Increase the transportation allowance for milk moving ranch to plant from Fresno, Kings and Tulare Counties to Southern California.
3. Reduce the Regional Quota Adjuster (RQA) in the counties of Fresno, Kings and Tulare from -28¢ to -27¢ per hundredweight.
4. Recognize that amendments to the RQA's are major amendments and that in the future any substantial change would be subject to referendum.
5. Qualify the milk of cooperative members who ship to their own plant located in a designated receiving area for the transportation allowances.
6. Delete obsolete language from the Pooling Plan for Market Milk.

Conclusions

At the hearing, testimony and evidence presented by all interested parties was in support of the proposed non-substantive adjustments.

1. Addition of Fresno, Kings and Tulare Counties to the Southern California transportation subpool.

Under Order No. 39, the cost for the operation of the Southern California transportation subpool was borne entirely by producers located in the Southern California area. The producers in the Southern California area had expressed their opinion that this was an inequitable approach and that all producers who are associated with the Southern California Marketing Area should be included in the

cost of the Southern California transportation subpool. In order to resolve this inequity, producers located in Tulare, Kings and Fresno Counties should also share in the cost of transportation credits.

2. Transportation allowance increase for Fresno, Kings and Tulare Counties.

An increase in the transportation allowances for milk moving ranch-to-plant from Fresno, Kings and Tulare Counties to a designated area in Southern California is necessary if producers shipping from these counties to plants located in the designated area are to be in reasonably competitive position with milk moving plant-to-plant from the same counties. Credible evidence and testimony are in support of an increase from 21¢ to 34¢ per hundredweight.

3. Adjustment of the Regional Quota Adjuster for Fresno, Kings and Tulare Counties.

In the initial calculations leading to the establishment of the transportation allowances and RQA's, the RQA's were assigned at levels which would create the least income change from the previous milk movement system. Since an increase in the transportation allowance in Fresno, Kings and Tulare Counties from 21¢ per hundredweight to 34¢ per hundredweight is being established, an adjustment from -28¢ to -27¢ per hundredweight in the RQA is necessary to retain a degree of balance.

4. Substantive nature of Regional Quota Adjusters.

The establishment of the RQA system, as mentioned earlier, was made necessary by the establishment of a ranch-to-plant milk movement system. This system was designed to move all market milk from areas of surplus supply to designated receiving areas by a series of transportation allowances to be financed through the pool. The imposition of the RQA's on top of the transportation allowances was an effort to minimize the disruption inherent in changing from one milk movement incentive system to another and to assure that the milk located farthest from the potential market would continue to have less value than milk closer to the market. Once the RQA structure is in place it is not the intent for these to be adjusted to any major extent without referendum. Language to this effect should be incorporated in the Pooling Plan. It is, however, recognized that from time to time changes in the transportation allowance may be made following a public hearing as costs of transportation change, without the need for a referendum.

5. Qualifying of producers shipping to a cooperative plant to receive transportation allowances.

In order that transportation allowances may be granted to producers who ship to plants located in designated receiving areas, it was necessary that only those plants that serve the higher classified uses should qualify their producers to receive the transportation allowances. Only the higher uses earn for the pool a premium payment from which such transportation allowances can be paid. Plants which utilize milk for Class 4a purposes only, do not pay premium prices and therefore producers shipping to such plants from supply areas should not qualify for the transportation credits. Producers shipping to Class 4a plants should not be qualified under the Pooling Plan to receive transportation credits. However, the Plan should permit the qualification of producers who ship to their own cooperative plants if such plants substantially supply the higher classified uses.

A representative of a proprietary handler suggested that the provisions of the newly proposed Section 921.1, which would qualify the milk of producers who ship to their own cooperative plant in a designated receiving area, should be extended to proprietary plants as well. The intent of this proposed provision is to qualify producers' milk for a transportation allowance when such producers serve a substantial portion of the Class 1 market through their cooperative association. A cooperative association is a producer in this transaction (See Section 61331 of the Food and Agricultural Code). With respect to a proprietary plant receiving milk in a designated receiving area, such plant should qualify its contracted producers for transportation allowances on the plant's own usage.

For the purposes of this provision, which is Section 921.1 of the proposal, the previous 12-month performance standard is used to show the intent to supply higher classes of usage and should not be limited to short term time periods. For any given month, establishing the previous 12-month performance as a standard, rather than a monthly performance standard, shows the necessary intent.

It would be difficult if not impossible to use current month's data as proposed by the proprietary representative since no report is made to the State in time to qualify or disqualify producers' milk for this purpose.

6. Delete obsolete language.

There are several sections which refer to dates or references in which such language is no longer necessary. These obsolete portions should be eliminated. All parties testified in support of deletion of such language.

This basis for findings is supplemental to the basis for findings prepared for Order No. 39 on December 20, 1982. It is not the intent of this hearing to go beyond the issues of equity which needed to be addressed following the implementation of Order No. 39.

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