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Questions And Answers On Federal Milk Marketing Orders

United States Department of Agriculture
Agricultural Marketing Service
Dairy Division

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QUESTIONS AND ANSWERS ON FEDERAL MILK MARKETING ORDERS

INTRODUCTION

To understand how Federal orders contribute to market stabilization, it is helpful to take a look at the conditions which brought them into being, their objectives, how they are organized and how they operate. These orders are now operating in most of the fluid milk marketing areas of the United States and cover about 70 percent of all U.S. milk marketings (see Appendix B, Measures Of Growth In Federal Milk Order Markets, 1950-95).

Fluid milk (chiefly used as a beverage) flows from dairy farmers to consumers through a vast channel work of modern production, processing and distribution. The marketing system on which this flow of milk depends is fast and highly organized. On a daily schedule, fresh milk flows from farms through local, regional and national processors and distributors, along urban, suburban and rural delivery routes to reach consumers whose appetites also operate on a daily schedule.

Because this supply of milk cannot easily be turned on and off to fit the supply of milk to the demand, the marketing system often runs into trouble with milk prices. At times, marketing conditions can result in wildly fluctuating prices which work unnecessary hardship both on those who depend on milk for a living and those who depend on it for food.

Federal orders are used to stabilize conditions for fluid milk—to make the buying and selling of fluid milk an orderly process upon which dairy farmers, milk dealers and consumers alike can depend.

At one time, dairy farmers delivered milk to homes in the nearby town. The matter of a “reasonable price” was settled through simple agreements between farmers and their customers. But as marketing methods developed, farmers became separated from consumers by distributors and wholesalers who set prices for both farmers and consumers.

The effect of this change was not only to put farmers in a more difficult bargaining position but also to make the pricing of milk to farmers subject to serious new elements of instability.

Farmers observed that prices became unstable chiefly because of fresh milk supplies in excess of daily consumer purchases. Yet, they also observed that some reserve milk was quite necessary to any well-supplied market. And because production varied widely from season to season, this reserve, consequently, was greater during the season of high production.

Farmers found that the presence of reserve milk in a highly competitive market tended to result in lower prices and eventually in lower production. Yet, when reserve supplies dwindled, temporary shortages resulted with upward pressures on prices.

Under this situation of price instability, farmers in many markets during past years found themselves virtually powerless to prevent unreasonable and harmful price manipulation. Dealers, driven by sharply competitive conditions, often engaged in "price wars," with lower prices being passed back to farmers.

Consumers pay the final cost of disruption in the form of higher prices when farm milk supplies decline.

As early as 1900, erratic and widely fluctuating prices had become a serious and characteristic problem of fluid milk markets. Following World War I, many farmers formed cooperatives in an effort to stabilize prices through collective bargaining with proprietary handlers. But these bargaining arrangements frequently were disrupted by a minority of dairy farmers and dealers who continued to trade in milk without regard to the bargaining agreements entered into by the majority.

When the depression of the early 1930's broke down most bargaining arrangements and caused farm milk prices to collapse, farmers turned to Government for help. Local and State regulatory agencies were established in all parts of the Nation and were effective in stabilizing prices. But only Federal authority was broad enough in scope to regulate markets where part of the milk entered into interstate commerce.

Federal authority to regulate the handling of milk was first provided in the Agricultural Adjustment Act of 1933. The Federal orders of today, however, are based on the Agricultural Marketing Agreement Act of 1937 (the Act), as amended, which sets out in detail the authority granted earlier.

Under this authority, the Secretary of Agriculture is empowered to help stabilize market conditions by issuing Federal orders (regulations enforceable by law) which apply to handlers of milk and its products. The Secretary of Agriculture also can enter into marketing agreements with processors, producers, associations of producers and others engaged in the handling of milk as a further instrument of market stabilization. Marketing agreements, however, have not been issued for many years. Consequently, the explanations in the following questions

and answers relate generally to Federal orders rather than to marketing agreements.

1. What is a Federal milk marketing order?

It is a regulation issued by the Secretary of Agriculture which places certain requirements on the first buyers or handlers of milk from dairy farmers.

a. It requires that handlers of milk for a marketing area pay not less than certain minimum prices established according to how the milk is utilized. These prices are established under the order after a public hearing at which evidence is received on the supply and demand conditions for milk in the market. A milk order, including the pricing provisions and all other provisions, becomes effective only after approval by dairy farmers.

b. It requires that payments for milk be pooled and paid to individual farmers or cooperative associations of farmers on the basis of a uniform or average price.

c. The provisions that an order may include are limited by the statute.

2. What is the scope of the Federal milk order program?

The Federal milk order program is essentially a national program with producers located in each of the 48 contiguous States delivering milk to plants regulated by milk orders. In about three-fourths of the States, over 90 percent of the Grade A milk is shipped to plants regulated under Federal orders.

The number of Federal orders has been reduced by more than one-half from the peak of 83 orders in the early 1960's in response to widening areas of milk procurement and distribution. Over the same period, the quantity of milk regulated under Federal milk orders has about doubled. About 75 percent of the Grade A milk and around 70 percent of all milk marketed in the country were being marketed under milk orders in the early 1990's.

3. What are the objectives of a Federal order?

Federal orders operate to:

a. Assist farmers in developing steady, dependable markets by providing prices for their milk which are reasonable in relation to economic conditions.

b. Assure consumers at all times of adequate supplies of pure and wholesome milk at reasonable prices.

They operate to correct conditions of price instability and needless fluctuations in price which:

a. Give unwarranted "stop" and "go" signals to production.

b. Result in unnecessarily depressed prices to farmers that do not properly reflect supply and demand conditions.

c. Jeopardize the quality of the milk and the dependability of its supply.

Milk orders also supervise the terms of trade in milk markets in such a manner to achieve more equality in the market power of producers as compared to that of milk processors.

4. How does a Federal order attain its objectives?

It bolsters market conditions with a legal framework of rules and procedures on which orderly marketing activities can be based to the benefit of all parties concerned. These rules and procedures serve to:

a. Give farmers, milk handlers and the public an active voice in determining minimum farm milk prices through a public hearing procedure.

b. Establish minimum prices to fluid milk buyers that assure farmers as much for their milk as general supply and demand conditions in the market warrant and assure the market of adequate current and future supplies of milk.

c. Provide for the orderly marketing of reserve milk through a pricing method based on the uses for which milk is sold and a payment method by which farmers are assured uniform prices for the milk they deliver to the market or to individual handlers in the market.

d. Reduce the dangers of unwarranted and harmful fluctuation of prices paid to farmers.

e. Allow for impartial audit of handlers' records to insure payments to dairy farmers and to verify reported utilization of milk.

f. Assure farmers of accurate weighing, testing, classification and accounting for milk.

g. Make available information on the handling of milk in the marketing area so as to enable interested parties to evaluate the market situation.

5. Who administers the Federal order program?

Supervisory administration of the Federal order program is carried out by the Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture (USDA), Washington, D.C. Each individual order is administered locally by a market administrator appointed by the Secretary of Agriculture. The market administrator employs a staff of auditors, agricultural economists and laboratory, data processing and clerical personnel.

6. What kind of milk is covered by Federal orders?

Federal orders are primarily instruments for stabilizing marketing conditions for "fluid milk" and, for this reason, they apply to milk which is produced under sanitary inspection for sale in fluid form. Such milk is often known as "Grade A" or milk eligible for fluid use.

State and local health regulations largely determine for each market the uses of milk which require "Grade A" supplies. In most markets, this category includes fluid whole, lowfat and skim milk, flavored milk drinks and buttermilk. In a few markets, additional uses are included, such as fluid cream and cultured cream products.

7. Who is regulated by an order?

Milk handlers are the only persons regulated. They usually are defined as anyone who handles Grade A milk from dairy farmers for distribution in the marketing area.

The order requires that when a milk handler operating under the order purchases milk from a dairy farmer, such handler must pay at least the minimum price, make accurate weights and tests and account properly for the way the milk is used.

The order does not control from whom the handler shall buy, to whom the handler shall sell, how much the handler should buy or sell or at what prices the handler may sell.

8. Are dairy farmers controlled in any way?

No. They may produce and sell any amount of milk under a Federal order. So far as the order is concerned, any dairy farmer who can find an outlet with a regulated handler in the market is entitled to the benefits of the order. Certain provisions in orders, however, may influence producers as they make production and marketing decisions. For example, seasonal incentive payment plans provide price incentives which encourage more even production during the year.

9. Does a marketing order regulate retail prices?

No. The Agricultural Marketing Agreement Act of 1937, authorizing Federal orders, does not authorize setting of retail milk prices.

10. How is milk priced under an order?

It is priced under a classified pricing plan which divides milk received by handlers into classes according to use. The plan provides an appropriate minimum price which handlers must pay producers for milk in each class.

Milk sold for consumption in fluid form is included in Class I. This class includes fluid whole milk, fluid lowfat and skim milk, and flavored milk and milk drinks. Milk in Class I receives the highest price in the market. Changes in this price are the major means used to obtain an appropriate balance between supplies and sales of fluid milk plus necessary reserves.

Milk used in manufactured dairy products is included in two classes. Class II milk is used in soft manufactured products, such as cream products, cottage cheese and ice cream, and has a lower price. Class III milk is used in hard manufactured products, such as butter and Cheddar cheese. Class III also includes milk used in nonfat dry milk in 11 orders, while Class III-A is milk used in nonfat dry milk in 22 orders. The lowest price is for Class III and Class III-A.

A well-supplied market requires a daily reserve supply of fluid milk to take care of daily fluctuations in demand. In addition, there are significant seasonal variations in the volume of milk produced which influence the quantity of reserve supplies carried by a market. Milk delivered to the market in excess of sales in the highest priced class is placed in a lower priced class or classes. By pricing reserve milk supplies, the classified pricing plan prevents such supplies from depressing the price of milk to dairy farmers to the point where the supply for a market may become endangered. It also results in greater market stability, without the price fluctuations that short-time changes in supply and demand could bring about.

The classified pricing plan also contributes to the orderly marketing of milk by pricing reserve milk at a level commensurate with its value in manufactured dairy products. Thus, reserve supplies are priced at a level related to their value

to the handler and at a level at which handlers will be willing to accept such excess milk.

The classified pricing plan recognizes that it is more costly to produce and market milk for fluid use than for milk that can only be used for manufacturing such products as butter, cheese and nonfat dry milk. This cost difference exists because:

a. Additional expenditures must be made for fluid milk to comply with the rigid sanitary standards which apply to Grade A milk.

b. Milk in fluid form, which is perishable in nature, usually must be transported relatively long distances from production areas to market centers.

11. How are specific price levels determined?

The Agricultural Marketing Agreement Act of 1937 requires that minimum farm prices for milk be established at levels which will:

a. Reasonably reflect economic conditions affecting the supply and demand for milk (such as the price of feeds).

b. Assure an adequate supply of pure and wholesome milk for the market.

c. Assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

d. Be in the public interest.

In short, the Act requires the establishment of minimum prices which will equate the supply of milk with the demand in regulated marketing areas after making provisions for necessary reserve supplies.

The price levels generally are set by means of price formulas which allow the minimum prices to change automatically along with certain changes in the market conditions for fluid milk. This is done because conditions which affect milk prices may change frequently and rapidly. Every season of the year brings changes which might render a fixed, flat price out of date.

In Federal order markets, class prices are based in most cases on the average price received by farmers for milk of manufacturing grade (Grade B) in the Minnesota-Wisconsin area (the M-W price). The Class I price is the M-W price plus a specified Class I differential that reflects the costs of transporting milk for fluid use, the added costs of marketing milk going into fluid milk products and the higher costs of producing Grade A milk. These Class I differentials are designed to relate the supply of milk for fluid use in the regulated markets to the demand for it in those markets.

Prices for milk used in Class II and Class III also are fixed on a formula basis which relates the price for each use of milk to the average price received by Minnesota and Wisconsin farmers for manufacturing grade milk. The Class II price in all orders is the M-W price plus a fixed differential of 30 cents per hundredweight. The Class III price in most cases is the M-W price. Class II prices are essentially the same in all orders, as are Class III prices. In orders with Class III-A pricing, the Class III-A price is determined through the use of a product-price formula and is based on wholesale prices of nonfat dry milk.

Advance Class I and Class II pricing procedures are used in Federal order markets to provide handlers with an announced price in advance of the month to which it applies. Both Class I and Class II prices are based on the M-W price for the second preceding month. Therefore, handlers know these class prices nearly a month before the month that the prices apply.

12. What is the Minnesota-Wisconsin (M-W) manufacturing grade milk price?

The M-W price is the average price received by farmers in Minnesota-Wisconsin for manufacturing grade milk delivered to plants before hauling costs and producer assessments are deducted. These plants are unregulated and therefore the M-W price is a competitive pay price determined in the marketplace. The M-W price is representative of the price paid for nearly half of the manufacturing grade milk in the country.

Each plant operator determines the milk price to be paid to farmers after considering the proceeds from the sale of products manufactured, the costs of operation and the competition. The M-W price is based on data collected by the USDA's National Agricultural Statistics Service from plants that purchase about 80 percent of all the manufacturing grade milk marketed in the two States. The base-month M-W price is updated to the current month for use in milk orders by a product-price formula.

13. How is the uniform or blend price to farmers computed?

To compute the uniform or blend price, the market administrator gets information from handlers at the end of each monthly delivery period telling how much milk they handled during the month and how much went into each use of milk.

From this information, the market administrator can determine how much of the total milk brought into the market belongs in each class.

The market administrator multiplies the minimum price for each class by the amount of milk in that class to get the total value of milk in each class. The total value of milk for individual classes is added to get the total value for all milk marketed during the period. The total value for all milk is divided by the total pounds of milk received from dairy farmers to obtain the average or pool price of milk for the market–in effect, a weighted average price. Milk handlers then are required to pay not less than this uniform pool price for all the milk they have received from each farmer.

The uniform or blend price may be computed separately for each handler or it may be computed for all of the handlers in the market depending on whether the market has an individual handler pool or a marketwide pool (see question 35(e)).

14. How are farmers paid under an order?

Handlers make payment to producers or cooperatives. Farmers receive milk checks once or twice monthly. Under Federal orders, payment may not be less than the uniform price as announced each month by the market administrator, except to producers who receive payment from the cooperative to which they belong.

15. How is multiple component pricing (MCP) used in milk orders?

While most orders provide that blend prices to dairy farmers are adjusted based on the butterfat content of their milk, an increasing number of orders are adopting multiple component pricing under which prices are based on both the butterfat and nonfat solids (or protein) in the milk. Historically, most of the value in milk was associated with the butterfat, but the nonfat milk solids, including protein, now carry most of the value.

Some orders are making adjustments to producer payments based on the somatic cell count of the producers' milk. By affecting the quality of the protein and butterfat components of milk, somatic cells affect the yields of some manufactured dairy products, such as Cheddar cheese, and the taste, quality and keeping characteristics of all milk products.

Multiple component pricing has been used primarily in markets with considerable manufacturing of dairy products, since it is the processors of such products that gain the most benefit from the higher nonfat solids in milk. MCP has not been adopted on Class I milk (milk used in fluid products) nor in markets where most of the milk is used in Class I. This is because consumers generally have been unwilling to pay for extra protein in fluid milk products, which means that fluid processors have been unable to obtain the added cost of higher protein milk in the marketplace.

16. How are Federal orders enforced?

Legal action may be instituted through the Justice Department in the Federal courts to enforce a Federal order.

If a market administrator discovers that a milk handler is not complying with the terms of the order, the market administrator informs the handler of this fact and asks the handler to make the necessary corrections. If the milk handler complies with the request promptly, the matter is terminated at that point.

If, however, the violation is not rectified promptly, the market administrator informs USDA. This can lead to injunctive action by the courts or to the imposition of civil or criminal penalties, depending on the nature of the violation.

17. Has the legality of orders ever been tested?

Yes. The Agricultural Marketing Agreement Act of 1937 and the orders issued under it have been tested in the courts many times. In several cases, the Supreme Court of the United States very thoroughly reviewed the Agricultural Marketing Agreement Act of 1937 and Federal orders issued under that authority. The court gave its approval to the law and to such orders.

The Act specifically provides that any handler regulated by a Federal order may petition the Secretary of Agriculture for a review of any provision of the order or obligation imposed by it. Any ruling on the petition adverse to a handler is reviewable by the Federal Courts.

Individual provisions of orders and procedures taken under the authority of orders have been reviewed many times by the courts. The constitutional power of the Federal Government to regulate the handling of milk which is in the current of interstate commerce or which burdens, obstructs or affects interstate commerce in milk has been established.

18. How are the operating costs of Federal orders defrayed?

Milk handlers are assessed in accordance with the quantity of milk they receive or handle. The amount of the assessment varies under different orders and at different times. Generally, it ranges from 2 to 5 cents per hundredweight of the milk received by the handlers from producers.

19. Are Federal orders a substitute for producer cooperatives?

No. A producer cooperative continues to perform all of its functions under a Federal order. At public hearings, cooperatives present testimony and factual information in support of, or in opposition to, proposed changes in the order.

Whenever the cooperative performs any of the physical functions connected with marketing, it will continue to perform these functions in the same manner as before the regulation.

Since orders are a mechanism for market stabilization only, they cannot perform many of the functions of cooperatives. Cooperatives guarantee markets for their producers' milk and secure the most beneficial utilization of milk. Cooperatives perform many of the other marketing functions such as procurement of supplies and economical transportation of milk.

20. Does a marketing order guarantee an adequate income to all farmers?

No. The marketing order program provides prices which will result in an adequate supply of pure and wholesome milk for each marketing area and it prevents prices from fluctuating wildly without regard to general economic conditions. In the long run, however, the Secretary of Agriculture must assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

21. Are milk handlers required to buy from certain farmers?

No. The milk order does not require a milk handler to purchase milk from any group of farmers or to purchase milk in any specified quantities. All it requires is that the milk handler conforms to the requirements of the order in paying for the milk received.

22. What is a milk marketing agreement?

It is an agreement entered into by milk handlers and the Secretary of Agriculture. Although an agreement is authorized by the Agricultural Marketing Agreement Act of 1937, it is rarely issued in connection with milk regulation. An agreement may be issued separately or in conjunction with an order. In the latter case, the agreement would be in terms identical with those of the order. If an agreement without an order were to be issued, the terms would not need to be limited to those specified for orders; the terms provided, however, would be of a kind which carry out the policy of the Act. They would be binding only on those signing the agreement.

23. Are orders adapted to individual market conditions?

In the past, milk orders generally have been tailored to individual local milk markets. Over time, however, the procurement and marketing of milk and dairy products have become more regional and national in scope. Consequently, markets for milk have become much broader in scope. This is reflected in the size of marketing areas where milk is regulated by a single order. Some of these areas encompass whole States and even territory in several States. The flow of milk from farm to consumer, however, may extend even beyond the boundaries of these broader areas. For that reason, a change in one order—particularly a change in price—affects supply-demand balance in other markets unless related changes are made in the other orders. Many of today's marketing problems must be viewed in the perspective of the national milk supply and the total demand for milk in the country.

24. May an order be issued for any market?

Yes, if it can be shown that:

a. The handling of milk is in the current of interstate commerce or where such handling burdens, obstructs or affects interstate commerce in milk.

b. Marketing or price conditions are such that an order is necessary or feasible to correct such conditions.

25. How is action on establishing an order first started?

An order is generally initiated when dairy farmers, through their cooperative associations, petition the Secretary of Agriculture to undertake the regulation of milk prices in a local marketing area. Upon receiving such a petition, the Secretary orders a preliminary investigation of the facts and circumstances in the market which might indicate the need and feasibility of issuing a marketing order.

If it appears from the preliminary investigation that an order might be necessary and feasible and might tend to carry out the declared policy of the Agricultural Marketing Agreement Act of 1937, a notice of a public hearing is issued. At the hearing, all interested parties, including producers, consumers and milk dealers, are given an opportunity to present facts and views on the proposed order and its provisions.

26. What are the procedures to be followed before an order can be issued?

Following the petition, preliminary investigation and hearing mentioned above, a "recommended decision and order" then will be issued. The recommended

decision and order are based on the facts presented at the public hearing. It represents a preliminary statement of the reasons for the issuance of an order. It also outlines a recommended order and gives reasons for each of the terms contained in it.

A period of time is allowed for interested persons to review the recommended order and to file exceptions.

After the comments are reviewed, any changes in the proposed order which seem necessary or desirable are made. Then, a final decision and final order are issued by the Secretary of Agriculture. These are presented to dairy farmers who are given an opportunity to vote on whether or not the order will be made effective. If the order contains a marketwide pool, the law provides that at least two-thirds of the producers selling milk in the marketing area must approve the final order before it may be issued. A favorable vote by three-fourths of the producers is necessary if the order provides for an individual handler pool. Producer approval is ascertained by a referendum and the percentage of approval is determined in relation to the number of producers who vote.

27. Why are these procedures necessary in establishing an order?

The marketing of fluid milk is a very complex business. It has an important impact on dairy farmers, milk dealers and the general public. In a democratic society, it is imperative that protection be afforded to all affected groups when any action of Government is contemplated. To assure this protection, procedural safeguards of notice, hearing, recommended decision, final decision, producer approval and final notice of the issuance of an order are necessary.

28. What groundwork must be laid before an order is issued?

Facts relating to general economic conditions and to prices, supplies and sales of milk must be obtained. Also needed is information regarding the extent to which the handling of milk in the proposed marketing area is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce. The need for an order and the conditions which will be corrected or relieved by the order also must be explained.

All of this material must be presented at a public hearing. Consequently, it is necessary that witnesses be prepared. Adequate preparation requires the services of experts in marketing, economics and statistics. Moreover, when a petition is made to the Secretary of Agriculture to institute an order in a market which has not been under regulation, it is usually required that a proposed Federal order be furnished. This would set forth in detail all of the terms and conditions which, in the opinion of the proponents, are necessary or desirable. The drafting of such a proposed order usually requires expert help from marketing specialists.

29. Does the Government provide any help in laying the groundwork?

It is not possible ordinarily for USDA to furnish personnel directly for the purpose of obtaining necessary background facts and information or for the purpose of drafting a proposed order for a new market. Within the limits of its personnel, USDA endeavors to meet with interested parties and furnish advice on the type and kind of information which will be necessary and possible sources for securing it. Expert nongovernmental help to assist in laying the groundwork for a Federal order generally is necessary.

Many Government agencies are able to contribute help in the preparation of a hearing. State Departments of Agriculture, State extension workers, State Departments of Health, and Departments of Economics and Agricultural Economics at State universities frequently provide information which is necessary background for marketing order purposes. Persons interested in developing the necessary material should communicate with these agencies for whatever help or information they can furnish.

30. How soon after a petition is entered will an order be issued?

The time between the receipt of a petition for an order and its issuance varies greatly. It depends on the availability of background information, the difficulties of the problem to be dealt with, the adequacy of the proposed order which accompanied the petition and the availability of USDA personnel to deal with it.

31. How are orders changed after they have been issued?

Whenever the possibility of improvement or changed circumstances require it, milk orders are changed by amendment. Approximately the same procedures are used in changing milk orders as are used when the orders are issued.

In the case of amendments to orders already issued, procedures may be somewhat shortened because of a shorter length of time for notice of hearing and exceptions to recommended decisions. The volume of analytical and review work may be smaller also.

A hearing to amend an order may be called by the Secretary of Agriculture whenever the Secretary feels an amendment to the order is necessary to carry out the declared policy of the Act. An amendment hearing may be requested by handlers, producers or other interested parties. The Agriculture and Consumer Protection Act of 1973 requires the Secretary to convene a hearing if requested by one-third or more of the market's producers, unless a decision on a similar proposed amendment was issued within 90 days of the request, or unless the amendment cannot legally be made. Except when voting on an advertising and

promotion program, producers must accept or reject the entire order as proposed, whether new or amended.

32. Can orders be voted out after being in effect?

Yes. A milk marketing order must be ended when the Secretary of Agriculture determines that its termination is favored by a majority of the dairy farmers who deliver more than 50 percent of the milk to the market. It may also be ended if the Secretary finds that the order either obstructs or does not tend to carry out the declared policy of the Agricultural Marketing Agreement Act of 1937.

33. In what way is the approval of dairy farmers determined?

The Secretary of Agriculture is authorized to conduct a referendum among dairy farmers to get their approval or disapproval of a proposed new or amended milk order. For new orders, the referendum method is always used. Cooperative associations are entitled to vote their "producer" membership as one unit. This is termed "bloc" voting.

When it is necessary to ascertain dairy farmers' views after an order has been issued, the referendum method is sometimes dispensed with if the necessary farmer approval can be clearly shown from the unit votes of organized producer cooperatives.

34. Can milk promotion, education and research programs be financed under Federal orders?

A 1971 amendment to the Agricultural Marketing Agreement Act of 1937 authorizes such programs on a market-by-market basis when approved by producers. A program is financed by deductions on all producer milk marketed under an order. The legislation requires that such funds be paid to an agency organized by milk producers and associations of producers and that a separate referendum be held on promotion provisions. Other provisions of an order are not affected if promotion provisions are disapproved by producers. Provisions may be made for suitable adjustments or credits on milk on which a mandatory checkoff for advertising or marketing research is made under a State law. Provisions shall be made for refund of producer deductions when requested by any producer.

When the National Dairy Promotion and Research Program, authorized by the Dairy and Tobacco Adjustment Act of 1983, became effective in 1984, Federal milk orders with advertising and promotion programs were amended to provide a fixed assessment rate of 10 cents per hundredweight. In addition, the orders were amended to provide that requests for refunds of the assessment be honored by having the market administrator send such refunds to the National Dairy Promotion and Research Board or to a “qualified” regional, State or local dairy promotion, research or nutrition education program designated by the producer. Changes in the orders remain in effect for the duration of the national program.

35. What is the meaning of terms used in Federal orders?

a. Producer.

A producer is a dairy farmer who delivers “Grade A” or “bottling quality” milk to a regulated handler and therefore is entitled to the protection and benefits of a milk order.

b. Handler.

A handler is a milk dealer, processor or distributor who is subject to a Federal order because the handler distributes milk in a regulated marketing area or because the handler processes milk which may be disposed of or distributed in a regulated marketing area. Cooperative associations which market milk for their member producers also are handlers in many markets.

c. Minimum price.

A minimum price is the least amount that proprietary handlers can pay producers for milk. Only minimum prices may be set. Handlers may pay higher prices if they choose.

d. Marketing area.

A marketing area is a designated trading area within which the handling of milk is regulated by the Federal order. Generally, all milk dealers who handle or sell milk in the designated marketing area are subject to the regulation of the Federal order that applies in that area.

e. Marketwide or individual handler pools.

Because values for milk are based on classified uses, it is necessary to have a device for paying individual producers a uniform or average price for the milk they deliver to a milk handler. There are two types of pooling plans authorized for use in Federal order markets.

(1) Marketwide pool.

The minimum average price is calculated on a marketwide basis, combining into one total the utilization of all handlers and the total receipts from all producers in the market. By this arrangement, all producers receive the same uniform or blend price per hundredweight for the milk they deliver irrespective of the handler to whom it is delivered. Because of the different utilizations of handlers, it is necessary for the market administrator to maintain a producer-settlement fund for the purpose of equalizing payments among various handlers. Marketwide pooling is currently used in almost all Federal order markets.

(2) Individual handler pool.

A minimum average price is calculated on the basis of each handler’s use and receipts of milk. Under this system, farmers selling to different handlers may have different minimum average prices. This method of pooling has declined in use over the years and is currently being used on a very limited basis.

f. Reserve milk supplies.

Reserve milk supplies are the quantities of milk which are not used in Class I but are necessary for a reliable supply of milk. This reserve includes the quantities of milk in excess of Class I use which result from normal day-to-day and seasonal variations in production and consumption of milk.

The term “surplus milk” is often applied to milk which is not used as Class I in the marketing area. This term, however, is frequently a misnomer because an adequate and dependable supply of milk for consumers requires that short-time and seasonal reserves be maintained. A surplus arises in a market when the quantity of milk delivered exceeds the quantity of milk sold in fluid form by an amount which is greater than the necessary reserve. And it can be considered “surplus” only when this condition continues for a period of time.

g. Seasonal incentive payment plans.

Two types of seasonal incentive plans are authorized for use in Federal milk orders to encourage more even production of milk throughout the year. They are the Louisville (takeout and payback) plan and the seasonal base plan for paying producers.

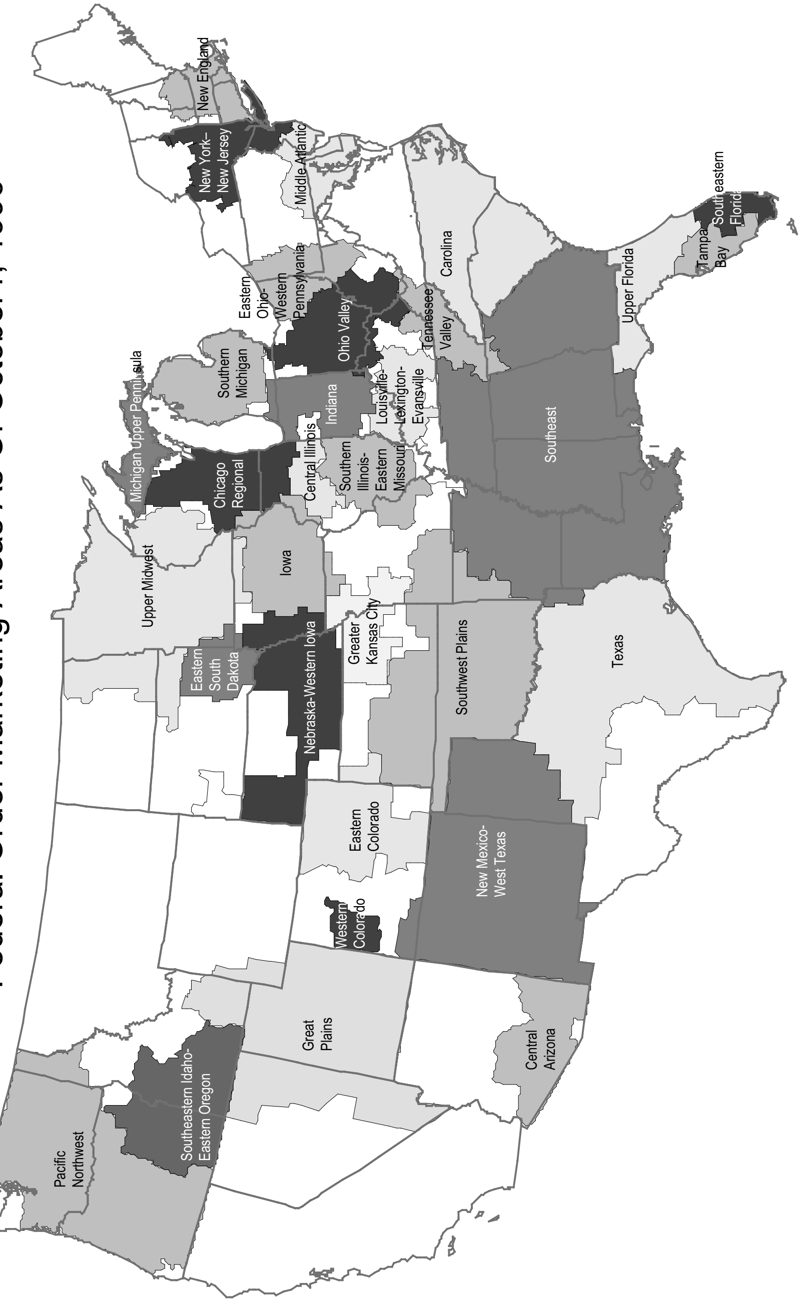
(1) Louisville plan.

A specified amount is withheld from the blend price or producer-settlement fund during the months of normally high production. In each of several fall months, when milk production is at its lowest level, a proportion of the total amount withheld is paid to producers.

(2) Seasonal base plan.

Every year, each producer establishes a base equal to the producer's average daily delivery of milk during the season of low production for the market. The base-forming period is specified in the order and need not be limited to one year. During the base-paying months, a producer is paid a higher price for the portion of the milk that does not exceed the producer's base and a lower price (approximately equal to the surplus class price) for deliveries that exceed the producer's base.

Federal Order Marketing Areas As Of October1, 1996



APPENDIX B — MEASURES OF GROWTH IN FEDERAL MILK ORDER MARKETS, 1950-95

Year	Markets 1/	Population 2/	Handlers 1/	Producers 3/	Producer deliveries	Class I use		Prices 4/		Receipts as share of milk marketings		Daily deliveries per producer	Gross value of milk 6/	
								Class I	Blend	Fluid grade 5/	All Milk		Per producer	All producers
	No.	Thou.	No.	No.	Mil. lb.	Mil. lb.	Pct.	Dol. per cwt.		Pct.	Pct.	Lbs.	Dol.	Mil. dol.
1950	39	*	1,101	156,584	18,660	11,000	58.9	4.51	3.93	41	25	326	4,914	769
1955	63	46,963	1,483	188,611	28,948	18,032	62.3	4.67	4.08	51	32	420	6,510	1,228
1960	80	88,818	2,259	189,816	44,812	28,758	64.2	4.88	4.47	64	43	648	10,482	1,990
1965	73	102,351	1,891	158,077	54,444	34,561	63.5	4.93	4.31	70	48	944	15,300	2,419
1970	62	125,721	1,588	143,411	65,104	40,063	61.5	6.74	5.95	79	59	1,244	27,636	3,963
1975	56	150,666	1,315	123,855	69,249	40,106	57.9	9.36	8.64	78	63	1,532	49,233	6,098
1976	50	157,295	1,305	122,675	74,586	40,985	54.9	10.70	9.75	79	65	1,661	60,277	7,394
1977	47	159,504	1,260	122,755	77,947	41,125	52.8	10.59	9.69	80	66	1,740	62,692	7,696
1978	47	161,224	1,189	119,326	78,091	41,143	52.7	11.40	10.57	80	67	1,793	70,528	8,416
1979	47	163,053	1,127	116,447	79,436	41,011	51.6	12.88	11.97	80	67	1,870	83,262	9,696
1980	47	164,908	1,091	117,490	83,998	41,034	48.9	13.77	12.86	80	67	1,954	93,685	11,007
1981	48	166,663	1,058	119,323	87,989	40,746	46.3	14.69	13.63	80	68	2,021	102,354	12,213
1982	49	172,775	1,010	120,743	91,611	40,807	44.5	14.63	13.53	81	69	2,079	104,573	12,627
1983	46	175,624	958	121,052	95,757	41,091	42.9	14.69	13.53	82	70	2,168	109,142	13,212
1984	45	177,524	912	119,033	91,676	41,517	45.3	14.41	13.33	81	70	2,104	104,935	12,491
1985	44	176,440	884	116,765	97,762	42,201	43.2	13.88	12.61	80	70	2,294	107,871	12,596
1986	44	177,992	849	112,322	98,791	42,725	43.2	13.60	12.38	80	71	2,413	111,581	12,515
1987	43	180,374	797	105,882	98,182	42,876	43.7	13.90	12.51	80	71	2,542	118,402	12,530
1988	42	184,180	776	104,141	100,066	43,141	43.1	13.42	12.14	79	71	2,627	119,261	12,420
1989	41	185,919	748	100,291	95,871	43,367	45.2	14.51	13.30	75	68	2,614	129,744	13,013
1990	42	195,841	753	100,397	102,396	43,783	42.8	15.55	13.78	77	70	2,796	142,324	14,290
1991	40	198,409	722	100,267	103,252	45,033	43.6	13.30	12.11	76	71	2,821	121,479	12,180
1992	40	200,530	698	97,803	107,947	44,914	41.6	14.57	13.12	77	73	3,017	146,452	14,324
1993	38	199,604	675	92,934	103,979	44,805	43.1	14.19	12.89	73	69	3,065	145,369	13,496
1994	38	201,487	651	92,052	107,818	44,866	41.6	14.75	13.16	74	70	3,209	154,140	14,189
1995	33	207,354	579	88,727	108,556	44,968	41.4	14.19	12.78	73	70	3,352	157,706	13,993

* Data not available.

1/ End of year. (Date on which pricing provisions became effective.)

2/ Population in Federal order markets at end of year. 1955, 1960-70, 1971, 1980, and 1990, according to 1950, 1960, 1970, 1980, and 1990 U.S. census, respectively. 1972-79, 1981-89, and 1991-95 are estimated.

3/ Average for year.

4/ Prices at 3.5% butterfat are simple averages for 1950-60 and weighted averages for 1965-95.

5/ The decrease in these percentages for 1988-95 results from handlers electing, because of unusual price relationships and qualification circumstances, not to pool milk that normally would have been pooled under Federal milk orders.

6/ Gross value at blend price adjusted for butterfat content.