

California's interaction with the FMMO

The interaction between California state pooling and pricing program and the Federal Milk Marketing Orders is showing up in many different areas. These are creating, supporting, or increasing disorderly marketing conditions.

These include the following, incomplete, list:

Since institution of the FMMO pricing under FAIR Act, the California Class 4a price has averaged 23 cents lower than the comparable FMMO Class IV. In the twelve months (May 2002 through April 2003) it has averaged 38.5 cents lower. The California Class 4b price has averaged over 31 cents less than the FMMO Class III price. These lower California manufacturing prices translate into lower FMMO prices through the NASS product price survey used to compute component prices in FMMO.

On April 22, 2003, the Supreme Court heard oral arguments in the case *Hillside Dairy v. Lyons*, concerning the importation of milk from Nevada and Arizona into the class 1 market of California. The challenge focused on the use of an exemption from a federal labeling law to restrict interstate commerce. The decision requires the district court to move to merits of the producers' claims.

A lawsuit is pending in the United States District Court for the District of Columbia wherein cooperatives from the Pacific Northwest and Northeastern States are challenging recent rules promulgated by USDA because, in their opinion, the Secretary has failed to fully appreciate, acknowledge, and assess the impact of the California system on the national pricing grid.

Although California only uses about one in four pounds of milk for the higher value Class 1, the State is now importing 15% of its class 1 needs. This is due in large part to out-of-state producers and in-state plants taking advantage of the inability of California to effectively regulate interstate commerce.

Milk from California producers is being pooled on at least four federal milk marketing orders—Arizona-Las Vegas, Central, Western, and Pacific Northwest. Pooling on other orders has ended with changes in pooling restrictions.

Similarly, some milk is moving from California into the Arizona market, because California producers can take advantage of a higher federal order price, which is more than the California overbase price.

Those wishing to build new cheese plants outside of California, when developing their economic model, are forced to use the California system for pricing of milk rather than federal order pricing to ensure future profitability.

This spring, the California Department of Food Agriculture modified its minimum prices for classified milk by setting a price floor for manufacturing grade milk at the federal price support level, even if the commodity prices dictate a lower price. The federal system has no similar provision. *Even then, the California system would support the price thirty to forty cents lower than the support price level.*

Relying upon the competing regulations, two new bottling facilities are in various phases of

construction, both of which are scheduled to open next year. These facilities are located in Yuma, Arizona and Clark County, Nevada. Both of these plants are strategically located to take advantage of the availability of California milk. The population markets in California serviced by these plants would not be subject to either the state or federal pricing regulations.

A bill is now pending the House of Representatives, H.R. 1659. Though it is ostensibly intended to correct some of these problems, it is neither complete nor correct.

This Senate has recently recognized, on two occasions, the need to study the California situation. Both the omnibus appropriations bill and the cost of war supplemental bill, instructed the Secretary to do a study of California pricing issues.