Order Code IB97011

CRS Issue Brief for Congress
Received through the CRS Web

Dairy Policy Issues

Updated July 30, 2003

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SUMMARY

Many dairy farmer groups are concerned that imports of milk protein concentrates (MPCs) are displacing domestic dairy ingredients and thus depressing farm milk prices. S.560 and H.R. 1160 would impose tariff rate quotas on certain MPCs, and S. 40 would prohibit the use of dry MPC in domestic cheese production. Dairy processor groups are opposed to these bills. A dairy producer group challenged the Customs Service classification of MPCs, but Customs ruled that current classifications are correct.

Separately, several major dairy policy issues were addressed in the context of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the 2002 farm bill), which was signed into law on May 13, 2002. Included in the enacted 2002 farm bill are a reauthorization of the dairy price support program for an additional 5 ½ years, and new authorization for direct payments to dairy farmers through September 2005, triggered whenever the market price of farm milk falls below a target price level.

Under the auspices of the dairy price support program, USDA supports farm milk prices through its purchases of surplus dairy products at stated prices. The 2002 farm bill extended the program through 2007 at the then-current support price of $9.90 per hundredweight (cwt.). USDA has been purchasing large quantities of surplus nonfat dry milk (powder) under the program. Consequently, USDA reduced the powder price from $0.90 to $0.80 per lb. on Nov. 15, 2002 and raised the butter price by 19.5 cents to $1.05 per lb. in an effort to reduce government costs. Dairy producer groups were concerned that this move would significantly reduce dairy farmer income, while processors supported a reduction in the powder purchase price.

In three separate supplementals enacted for FY1999-FY2001, Congress authorized USDA to make ad-hoc "market loss" payments to dairy farmers to help mitigate the effects of volatile farm milk prices. Separately, the six New England states had temporary authority for a regional dairy compact from 1997 until its expiration on September 30, 2001. The enacted 2002 farm bill authorized a new counter-cyclical direct payment program for all dairy farmers, which is modeled after the compact and the market loss payments. Under the new program, all dairy farmers potentially can receive a direct government payment when the farm price of milk used for fluid consumption in Boston falls below $16.94 per cwt. in any month. Independent estimates show that the total cost of this program could exceed $4 billion over its 3 ½ year life, much higher than the original estimate of $1 billion. The payment program has been controversial because of its cost, and concerns that an included payment cap benefits small farmers at the expense of large farmers. Enrollment in the program began on August 15, 2002, and will continue until the program expires on September 30, 2005.

USDA is in the final stages of making a total of approximately $1 billion in direct payments under a Livestock Compensation Program, designed to compensate livestock producers for severe feed and pasture losses caused by a natural disaster in 2001 or 2002. Dairy farmers in disaster-declared regions have received a payment of $31.50 per adult dairy cow. Additional livestock disaster assistance of $250 million was included in the enacted FY2003 consolidated appropriations resolution (P.L. 108-7). Program sign-up began on June 6, 2003. Implementation of these payments is pending.

Most Recent Developments

In response to a challenge issued by the National Milk Producers Federation, a large trade association representing dairy farmers, the U.S. Customs Service ruled on April 1, 2003, that milk protein concentrates (MPC) are classified correctly in the tariff schedule. MPC imports currently are not subject to quotas. U.S. dairy producer groups are concerned that foreign manufacturers are using nonfat dry milk (NDM) in the production of MPCs, which they say circumvents current import quotas on NDM. Dairy farmers contend that MPC imports are depressing farm milk prices and dairy farmer income. Legislation also has been introduced (S. 560 and H.R. 1160) in the 108th Congress that would impose import quotas on certain MPCs. Dairy processor groups are strongly opposed to this legislation and any attempts to restrict imports of MPC. They contend that MPC imports have minimal impact on farm milk prices and that any restrictions on imports would increase their production costs and consumer prices. Separately, on May 13, 2003, the chairman of the Senate Finance Committee requested a U.S. International Trade Commission (ITC) investigation of U.S. market conditions for milk proteins, with a written report to be filed no later than May 2004.

Background and Analysis

Milk Protein Concentrate Trade Issues

Milk protein concentrate is a product in which certain milk proteins necessary for the production of cheese and other food products are selectively included and all or most of the water is removed from the milk, thus making it efficient to ship long distances. Dairy farmer groups are concerned that imports of MPC are displacing domestic milk used for cheesemaking and depressing farm milk prices. Certain concentrations are not covered by tariffs or quotas under the existing World Trade Organization agreement. The importation of these products was not an issue when the agreement was formulated in the 1990s.

On March 5, 2001, the General Accounting Office released a study on the production, imports, and regulation of milk protein concentrates. The study found that MPC imports grew rapidly from 1990 to 1999 – from 805 to 44,878 metric tons, including a near doubling in 1999 over 1998 alone. According to the study, six countries (New Zealand, Ireland, Germany, Australia, the Netherlands and Canada) accounted for 95% of the 1999 imports. For the full text of the GAO study, see [http://www.gao.gov/new.items/d01326.pdf]. MPC imports peaked in 2000 at 52,677 metric tons, and have fallen back to 28,469 metric tons in 2001 and 33,626 metric tons in 2002, according to International Trade Commission data.

Currently, neither wet nor dry MPC is allowed as an ingredient in any U.S. cheese which has a standard of identity defined by the Food and Drug Administration, which includes most cheese. Cheese processors had petitioned FDA for a change in standards to allow MPC in cheese production. FDA currently is considering this request. Conferees deleted from the FY2001 agriculture appropriations bill a Senate provision that would have prohibited FDA from issuing any regulations that would allow MPC as an ingredient in the production of cheese. Companion bills (S. 117 and H.R. 1016) were introduced in the 107th Congress that would have prohibited FDA from allowing milk protein concentrates as an ingredient in any cheese with a standard of identity. Other bills (S. 847 and H.R. 1786) would have imposed a tariff rate quota on MPC and casein (the major portion of milk protein). No action was taken on any of these measures. To date in the 108th Congress, similar bills have been introduced: S. 560 and H.R. 1160 would impose tariff rate quotas on certain MPCs, and S. 40 would prohibit the use of dry MPC in domestic cheese production. No action has been taken on these bills.

Supporters of these bills, including most milk producer groups, contend that foreign MPC and casein are being dumped in the United States. Opponents of the legislation include dairy processor groups, the largest of which is the International Dairy Foods Association, who contend that MPC imports are not displacing U.S. production of nonfat dry milk. They had maintained that the domestic support price for nonfat dry milk should be lowered instead to stimulate the market for domestic powder. (The government purchase price of surplus nonfat dry milk was reduced on November 15, 2002. For more information, see the section on "Butter-Powder Tilt" in this brief.)

The National Milk Producers Federation (NMPF), the largest trade association representing milk producer cooperatives, has urged the federal government to examine several trade policy options for addressing the milk protein concentrate import issue. These include provisions in the Trade Act of 1974 that allow the President (following an International Trade Commission investigation) to provide relief to a U.S. industry adversely affected by imports; a 1974 Trade Act provision that allows the U.S. Trade Representative to retaliate against certain foreign trade policies; and the use of antidumping laws and countervailing measures.

On April 17, 2002, the NMPF filed a formal challenge concerning the U.S. Customs Service classification of various dairy product imports, including MPC. Under Section 516 of the Tariff Act of 1930, interested parties are permitted to challenge the tariff classification of imported items. The NMPF claims that imported MPC is not a true concentrated milk protein, but is instead a blend of other dairy products (such as nonfat dry milk, whey powder and casein). These blends, they say, "take unfair advantage of U.S. trade policies that allow the unrestricted entry of MPC, but not the individual components found in the blended products." On April 1, 2003, the Customs Service ruled that milk protein concentrates are classified correctly. It stated that the current definition of milk protein concentrate only requires that MPC's consist of at least 40% milk proteins, but does not specify whether the product is manufactured through the filtration of skim milk or the blending with nonfat dry milk or other components. The NMPF has announced an appeal of the Customs ruling, a process which could take more than one year.

Separately, on May 13, 2003, the chairman of the Senate Finance Committee requested an ITC investigation of U.S. market conditions for milk proteins, with a written report to be filed no later than May 2004. Among the requirements, the report is to include an overview of the global market of milk proteins, information on how government support and intervention affects the protein market, and an assessment of how imported milk proteins affect U.S. farm milk prices

Counter-Cyclical Dairy Farmer Payments

Background

In FY1999-FY2001, Congress provided just over $32.5 billion in emergency spending for USDA programs, primarily to help farmers recover from low farm commodity prices and natural disasters. The majority of these funds were for supplemental direct farm payments made to producers of certain commodities, primarily grains and cotton, but also including soybeans, peanuts, tobacco and milk. Of this amount, dairy farmers received supplemental "market loss" payments of $200 million in FY1999 under the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (P.L. 105-277), $125 million under the FY2000 agriculture appropriations act (P.L. 106-78), and $675 million under the emergency provisions in the FY2001 agriculture appropriations act (P.L. 106-387).

Some dairy farmer groups sought a permanent direct payment program for dairy farmers to be included in the 2002 farm bill as a means of supplementing dairy farm income when farm milk prices are low. Prior to the emergency payments made each year on an ad-hoc basis in FY1999 through FY2001, dairy farmers generally were not recipients of direct government payments. However, some groups contended that farm milk prices had been volatile in recent years and that dairy farmers needed more income stability.

Separately, the Northeast Dairy Compact, which provided price premiums to New England dairy farmers when market prices fell below a certain level, expired on September 30, 2001. These premiums were funded by assessments on fluid milk processors, whenever fluid farm milk prices in the region fell below $16.94 per hundredweight (cwt.). Supporters of the Northeast compact had sought for an extension of the compact; the Southeastern states were seeking new authority to create a separate compact. However, processors and Upper Midwest producers are strongly opposed to regional compacts.

Milk Income Loss Contract (MILC) Payments

Section 1502 of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the 2002 farm bill) authorized a new counter-cyclical national dairy market loss payment program. (Upon implementation, USDA dubbed the program the "Milk Income Loss Contract (MILC) Payments" program.) This program does not replace the dairy price support program or federal milk marketing orders, the current federal milk pricing policy tools. Instead, it serves as an alternative to regional dairy compacts and ad-hoc emergency payments to farmers, by authorizing additional federal payments when farm milk prices fall below an established target price.

Under the provision, dairy farmers nationwide are eligible for a federal payment whenever the minimum monthly market price for farm milk used for fluid consumption in Boston falls below $16.94 per hundredweight (cwt.). In order to receive a payment, a dairy farmer must enter into a contract with the Secretary of Agriculture. While under contract, a producer potentially can receive a payment equal to 45% of the difference between the $16.94 per cwt. target price and the market price, in any month that the Boston market price falls below $16.94. A producer can receive a payment on all milk production during that month, but no payments will be made on any annual production in excess of 2.4 million pounds per dairy operation. All contracts expire on September 30, 2005, and payments are being made retroactively to December 1, 2001.

This new dairy program is modeled after the Northeast dairy compact which was in effect in the six New England states from 1997 until its expiration on September 30, 2001. However, under the expired dairy compact, dairy processors were required to pay the difference between the $16.94 per cwt. fluid milk target price and any market price shortfall for fluid use milk in the compact region. The new program shifts the responsibility of the payment from the processor (and ultimately the consumer) to the federal government.

During the farm bill debate, the dairy payment program was generally supported by milk producer groups in the Northeast and the Upper Midwest. Producer groups in the Northeast region viewed it as an alternative to the Northeast dairy compact. Upper Midwest producers preferred the new program to state compacts since the new program shares the price premiums nationally. Large dairy farmers expressed concern that the new program will cause excess milk production that will in turn decrease farm milk market prices. They contend that this would negatively affect their income, since their annual production is well in excess of the 2.4 million lb. payment limit, and any production in excess of 2.4 million pounds would receive the market price and no federal payments. (Annual production of 2.4 million pounds is roughly equal to the annual production of a herd of approximately 120 to 130 dairy cows.) The International Dairy Foods Association, a trade association representing dairy processors, was opposed to the program in its earlier version, when processors would have been required to continue paying the price premiums. However, its opposition was lifted, when the funding responsibility was shifted to the federal government as in the final version of the program.

USDA Implementation. USDA began accepting applications for the "Milk Income Loss Contract (MILC) Program" on August 15, 2002 and will continue to do so until the program expires on September 30, 2005.

To date, the monthly market price has been below the target price of $16.94 in every eligible month. The program payment rates for each month are displayed in Table 1.

USDA also determined how to handle certain implementation issues that were not addressed in the authorizing legislation. For example, the legislation limited individual payments to the first 2.4 million lbs. of annual production, but did not address whether a producer with annual production in excess of the limit could choose which month's production would receive a payment. Larger producers wanted this flexibility so that they could waive payments in a month when the payment rate is relatively low, if they thought the payment rate might be higher in later months of the year. USDA announced that beginning in FY2003, an individual producer can designate which month to receive the first payment for the fiscal year. The producer must designate the starting month by the 15th of the preceding month. Once the selected month arrives, producers will continue to receive payments from that month forward, until payments are received on 2.4 million lbs. of production, or the end of the fiscal year, whichever comes first.

Table 1. Monthly Milk Income Loss Contract Payment Rates

Month	Payment Rate (per hundredweight)	Month	Payment Rate (per hundredweight)
December 2001	$0.77	October 2002	$1.59
January 2002	$0.78	November 2002	$1.39
February 2002	$0.78	December 2002	$1.43
March 2002	$0.93	January 2003	$1.41
April 2002	$1.00	February 2003	$1.56
May 2002	$1.09	March 2003	$1.75
June 2002	$1.20	April 2003	$1.82
July 2002	$1.38	May 2003	$1.79
August 2002	$1.45	June 2003	$1.78
September 2002	$1.45	July 2003	$1.76
		August 2003	$1.22
FY2002 Simple Average	***$1.08***	***FY2003 Average (to date)***	***$1.59***

Retroactive Payments Controversy. USDA handled the timing of the retroactive payments (covering milk production from December 2001 through August 2002) differently than the FY2003 and subsequent year payments. One option that was given to producers by USDA was to receive retroactive payments beginning with December 2001 milk production and then for each consecutive subsequent month until the producer's annual production payment limit of 2.4 million lbs. of annual production was exhausted. If the participating dairy farmer waived this option, the farmer instead could have opted to receive just one payment for the fiscal year limited to milk production in September 2002.

Some dairy groups contend that this methodology favored the largest dairy farms. For example, a large producer who produces more than 2.4 million lbs. of milk per month would have opted for receiving only the September payment that was $1.45 per cwt., the highest monthly payment in the fiscal year (see **Table 1** above). Farmers who produce less than 2.4 million lbs. of milk per month likely would opt for receiving multi-month payments beginning in December 2001, when the payment rate was at its lowest point of the year.

In summary, large producers with *monthly* production above 2.4 million lbs. received a retroactive payment of $1.45 per cwt.; the smallest producers with *annual* production below 2.4 million lbs. received an average payment of $1.08 per cwt. (the average payment for all 10 eligible months of FY2002); medium to large sized producers with production between approximately 300,000 and 2 million lbs. per month received an average retroactive payment of about $0.80 per cwt.

Estimated Cost of the MILC Program. The current estimated total cost of the MILC program over its 4-year life is significantly higher than estimates last year when the program was being formulated. Based on market conditions in March 2002, the Congressional Budget Office (CBO) estimated total direct federal payments of $963 million over the life of the program. One year later, in its baseline budget estimates in March 2003, CBO revised its total cost estimate for the MILC program to $4.2 billion. Independent estimates from the Food and Agricultural Policy Research Institute (FAPRI) at the University of Missouri and USDA concur that the total cost could be in the $4.0-$4.5 billion range. The main reason for the disparity between the 2002 estimate and the 2003 revisions is that market prices for farm milk over the past year have been far below earlier expectations. USDA announced in its FY2004 budget summary, released in February 2003, that the estimated outlays of the program will be $2.4 billion alone in FY2003 (consisting of the retroactive payments and the regular payments), an estimated $1.1 billion in FY2004. Some critics of MILC payments are concerned that these payments might contribute to the current situation of low farm milk prices

Dairy Price Support Program Issues

Background

The Agricultural Act of 1949 first established the dairy price support program by permanently requiring USDA to support the farm price of milk. Since 1949, Congress has regularly amended the program, usually in the context of multi-year omnibus farm acts and budget reconciliation acts. (See **Table 2**, below, for a recent history of spending on the dairy price support program and related activities.) Most recently, Section 1501 of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the omnibus 2002 farm bill) authorized a 5 ½-year extension of the program through December 31, 2007 at the then-current support price of $9.90 per hundredweight (cwt.) of farm milk.

Historically, the supported farm price for milk is intended to protect farmers from price declines that might force them out of business and to protect consumers from seasonal imbalances of supply and demand. USDA's Commodity Credit Corporation (CCC) supports milk prices by its standing offer to purchase surplus nonfat dry milk, cheese, and butter from dairy processors. Government purchases of these storable dairy products indirectly support the market price of milk for all dairy farmers. Prices paid to the processors are set administratively by USDA at a level that should permit them to pay dairy farmers at least the federal support price for their milk.

In order to achieve the support price of $9.90 per cwt. of milk, USDA has a standing offer to processors to purchase surplus manufactured dairy products at the following prices: $1.05 per lb. for butter, $0.80 for nonfat dry milk, $1.1314 per lb. for block cheddar, and $1.1014 per lb. for barrel cheese. Whenever market prices fall to the support level, processors generally make the business decision of selling surplus product to the government rather than to the marketplace. Consequently, the government purchase prices usually serve as a floor for the market price, which in turn indirectly support the farm price of milk at $9.90 per cwt.

Table 2. Commodity Credit Corporation Dairy Price and Income Support Operations, 1979/80-2001/02

Marketing Year[a]	Net Removals Milk Equivalent (billion lbs.)[b]	Net Outlays (million $)	CCC Support Price ($ per cwt.)	CCC Purchases as Percentage of Production
1980-81	12.7	1,975	13.10	9.6
1981-82	13.8	2,239	13.49-13.10	10.2
1982-83	16.6	2,600	13.10	12.0
1983-84	10.4	1,597	13.10-12.60	7.6
1984-85	11.5	2,181	12.60-11.60	8.2
1985-86	12.3	2,420	11.60	8.5
1986-87	5.4	1,238	11.60-11.35	3.8
1987-88	9.7	1,346	11.10-10.60	6.7
1988-89	9.6	712	10.60-11.10	6.7
1989-90	8.4	505	10.60-10.10	5.7
1990-91	10.4	839	10.10	7.0
1991-92	10.1	232	10.10	6.7
1992-93	7.6	253	10.10	5.0
1993-94	4.2	158	10.10	2.8
1994-95	2.9	4	10.10	1.8
1995-96	0.1	-98	10.10-10.35	0.1
1996-97	0.7	67	10.20	0.4
1997-98	0.7	291	10.20-10.05	0.4
1998-99	0.3	480 (c)	10.05-9.90	0.2
1999-2000	0.8	684 (d)	9.90	0.5
2000-01	0.3	1,140 (e)	9.90	0.2
2001-02	0.2	614	9.90	0.1
2002-03 (g)	0.5	2,902 (f)	9.90	0.3

Source: U.S. Department of Agriculture, Farm Service Agency, selected publications.
a. The marketing year is October 1-September 30.
b. The milk equivalent is the pounds of fluid milk used to manufacture cheese and butter, on a milkfat basis.
c. Includes $200 million in emergency "market loss" payments authorized by P.L. 105-277.
d. Includes $125 million in net outlays for market loss payments authorized by P.L. 106-78.
e. Includes $675 million in market loss payments authorized by P.L. 106-387.
f. Includes a USDA-estimated $2.4 billion in Milk Income Loss Contract payments
g. USDA forecast.

The dairy price support program is separate from the Milk Income Loss Contract (MILC) payments that also were authorized by the 2002 farm bill. (See the section above in this brief for more on the MILC payment program.) However, the MILC payments are considered a related activity to the price support program. Hence, MILC outlays are included in Table 2.)

Butter-Powder "Tilt"

Under current dairy price support law, USDA has the authority twice annually to adjust the support prices of butter and nonfat dry milk (powder) in order to minimize federal expenditures on the purchase of surplus dairy products. Whenever USDA reduces the support price of one product, it must increase the support price of the other in order to continue supporting the overall farm price of milk at the mandated level of $9.90 per cwt. USDA recently exercised this authority effective November 15, 2002, when it reduced the purchase price of nonfat dry milk by 10 cents, from $0.90 per lb to $0.80 per lb., and increased the butter purchase by 19.5 cents to $1.05 per lb.

Many dairy processor groups favored the reduction in the government purchase price for surplus nonfat dry milk. Proponents say that in the long run this will reduce government costs, and make domestic nonfat dry milk more competitive in world markets. Most dairy farmer groups strongly opposed a reduction in the nonfat dry milk purchase price. They contend that the income of all dairy farmers will be adversely affected. Instead, dairy producer groups contend that quotas should be placed on imports of milk protein concentrates, which they say displace domestic production of nonfat dry milk and contribute to powder surpluses. (See "Milk Protein Concentrate Trade Issues" below.)

At the time of the price adjustment, USDA said it took such action, because it has accumulated nonfat dry milk stocks well above its ability to use the product and because of the government cost associated with purchasing and storing the product. Despite a similar price adjustment made in 2001 (when the powder price was reduced from $1.00 per lb. to $0.90 per lb), market conditions are such that USDA continues to purchase surplus nonfat dry milk in large quantities. In FY2002, USDA purchased 619 million lbs. of surplus powder, compared with 371 million lbs. in FY2001. Consequently, at the beginning of FY2003, USDA had uncommitted powder inventories of approximately 1.1 billion lbs. In early November 2002, USDA announced that virtually all of the powder had been committed for three major uses: overseas humanitarian assistance, domestic livestock feed assistance, and domestic production of casein. Although 1.1 billion lbs. of powder have been committed, USDA officials warn that it could take several years to move that much product to those uses. USDA also projects that at the new, lower powder purchase price of $0.80 per lb., the government likely will purchase 400 million lbs. of surplus product in FY2003, instead of the estimated 600 million lbs. under the previous purchase price of $0.90. USDA also expects to begin purchasing butter under the higher purchase price of $1.05 but expects to dispose of any surplus butter through various channels relatively quickly.

Estimated Impact of Butter-Powder Tilt on Dairy Farmers. USDA economists estimate that the net cost to dairy farmers of the most recent butter-powder price adjustment will be approximately 10 to 15 cents per hundred lbs. (cwt.) of milk marketed in 2003. This would translate into about a $160 to $240 million reduction in dairy farmer income. This estimate is based on a projection that the average farm milk price would decline by about 20 cents per cwt. However, approximately 5 to 10 cents of the price reduction would be offset by an increase in Milk Income Loss Contract (MILC) payments, which rise as market prices fall. (See “Milk Income Loss Contract (MILC) Payments” above for more information on this program.)

An analysis conducted by the National Milk Producers Federation (NMPF) projects a much stronger negative effect on farm milk prices than the USDA study. NMPF forecasts a net price reduction of 54 cents per cwt. in 2003, compared with the USDA projection of 10 to 15 cents. Dairy farm income would drop $870 million under the NMPF analysis. The main difference between the two analyses is that NMPF projects a stronger decline in cheese prices than USDA, which NMPF says would occur as powder prices fall and more farm milk would be attracted to the cheese market.

Livestock Disaster Assistance

In response to widespread drought in many livestock and dairy production regions of the country, USDA announced September 19, 2002, that it would provide $752 million for a new 2002 Livestock Compensation Program (LCP) (for details, see the USDA press release online at [http://www.usda.gov/news/releases/2002/09/0392fs2.htm]). In early December, USDA added $185 million in available funding to the program, bringing potential total payments to $937 million. The program was designed to compensate livestock producers and dairy farmers experiencing severe 2001 and 2002 feed and pasture losses.

Under the original program, direct payments were made to producers of beef, dairy, sheep and goats in any county that had been declared a disaster area by the Secretary between January 1, 2001 and September 19, 2002 , including disaster designation requests pending on September 19, 2002, that were subsequently approved. (Farm disaster assistance provisions in the enacted FY2003 omnibus appropriations resolution (P.L. 108-7) extended the September 19, 2002 cutoff date to February 20, 2003.) The payment rates were $31.50 per adult dairy cattle, $18 per adult beef cattle, $13.50 for certain livestock over 500 lbs, and $4.50 per sheep or goat. Payments are limited to $40,000 per person, and could not be made to any person with qualifying gross revenue over $2.5 million. Most of the funding for the program came through Section 32 funds, which originate from a portion of customs receipts that are made available to USDA to support the farm sector through various activities. (For details on Section 32, see CRS Report RS20235.) P.L. 108-7 required any new spending to come from the Commodity Credit Corporation, instead of Section 32, and reimbursed Section 32 with $250 million in CCC funds to compensate for a portion of the past payments of the program.

LCP payments are virtually completed. To date, $1.138 billion in total LCP payments have been obligated to all eligible livestock growers, including dairy farmers. Of the amount obligated, approximately 45% of the total disbursed has gone to eight states: Texas ($113.4 million), Nebraska ($66.2 million), Oklahoma ($64.4 million), Missouri ($62.6 million), California ($62.4 million), Kansas ($57.7 million), South Dakota ($53.6 million), and West Virginia ($40.3 million).

P.L. 108-7 also included an additional $250 million to further compensate livestock producers with forage losses caused by a disaster in either 2001 or 2002. These funds are being administered in the same manner as previous Livestock Assistance Programs that have been authorized on an ad-hoc basis, most recently in 2000. Under past programs, direct payments were made to eligible livestock producers (including dairy producers) in a disaster-declared region, who suffered a minimum 40% loss of available grazing for at least 3 consecutive months. Program sign-up began on June 6, 2003. Implementation of these payments is pending.

For more on disaster assistance, see CRS Report RL31700, see the CRS Electronic Briefing Book, *Agricultural Policy and the Farm Bill*, page on "Farm Disaster Assistance" [http://www.congress.gov/brbk/html/ebagr48.html].

Dairy and the 2002 Farm Bill (P.L. 107-171)

The Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the 2002 farm bill), which was signed into law on May 13, 2002, establishes federal farm commodity price and income support policy for the next 6 years. Among the major dairy provisions in the enacted 2002 farm bill is an extension of the dairy price support program at the current level of support, and authorization for counter-cyclical payments to dairy farmers when market prices for farm milk fall below a target level.

See **Table 3** below for a side-by-side comparison of the 2002 farm bill dairy provisions with previous law or policy. Earlier sections of this brief provide more detail on the two major federal dairy pricing policy tools authorized by the 2002 farm bill – the dairy price support program and the counter-cyclical dairy farmer payments program. For an overview of all major provisions in the 2002 farm bill, see CRS Report RS21233, *The 2002 Farm Law at a Glance*.

Table 3. A Comparison of the Dairy Provisions of the 2002 Farm Bill with Previous Law or Policy

Previous Law/Policy	Enacted 2002 Farm Bill Dairy Provisions
1. Dairy Price Support Program (DPSP)	
The 1996 farm bill (P.L. 104-127), as amended, reauthorized the DPSP at the then-current level of support ($9.90 per hundredweight (cwt.) of milk). The DPSP indirectly supports the farm price of milk through USDA purchases of surplus cheese, butter and nonfat dry milk (powder). The law allows the Secretary of Agriculture to adjust government purchase prices of butter and powder twice annually in order to minimize government expenditures. *[Section 141]* The FY2002 agriculture appropriations act (P.L. 107-76) extended the DPSP through	Extends the DPSP through December 31, *2007* at the current level of support ($9.90 per cwt.). The Secretary is permitted to adjust purchase prices of butter and nonfat dry milk twice annually to minimize government expenditures on the program. *[Section 1501]*

Previous Law/Policy	Enacted 2002 Farm Bill Dairy Provisions
May 31, 2002 *[Section 772(a)*]	
2. Counter-Cyclical Payments for Dairy Farmers The 1996 farm bill (P.L. 104-127) gave contingent authority for the six New England states to create an interstate dairy compact. *[Section 147]* The compact required fluid milk processors in New England to pay a minimum price for farm milk used for fluid consumption that is higher than the minimum price established under federal regulation. Compact was established in 1997 at a minimum price of $16.94 per hundredweight (cwt.). Legislative authority expired on September 30, 2001. Separately, emergency authority included in the agriculture appropriations acts of FY1999 (P.L. 105-277), FY2000 (P.L. 106-78) and FY2001 (P.L. 106-387) provided *ad-hoc* direct government payments to all dairy farmers in response to volatile farm milk prices.	Authorizes a new counter-cyclical payment program for dairy farmers through September 30, 2005. Whenever the minimum monthly fluid farm milk price in Boston falls below $16.94 per cwt., all eligible farmers nationwide will receive a direct government payment equal to 45% of the difference between $16.94 and the lower Boston price. Payments to individual farmers can be received on up to 2.4 million lbs. of annual production. Retroactive payments will be made for each month back to December 2001. No budget limitations on how much can be spent each year or in total. CBO estimates the total cost of the program at $963 million over the life of the program. *[Section 1502]*
3. Recourse Loan Program P.L. 104-127 permanently authorized a new recourse loan program to help dairy processors balance their inventories, to be implemented once the dairy price support program (DPSP) expires. *[Section 142]* P.L. 104-127 originally required the elimination of the DPSP on January 1, 2000. However, subsequent legislation extended price support authority. Recourse loan program was never implemented, and its authority was repealed by P.L. 107-76.	No provision.
4. Dairy Export Incentive Program The 1985 farm bill (P.L. 99-198) first authorized the dairy export incentive program, which helps U.S. exporters counter subsidized sales by foreign competitors through cash or commodity bonuses. *[Section 153]* Program was reauthorized periodically in	Extends program authority through 2007. *[Section 1503(a)]*

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subsequent farm bills. Most recently, the 1996 farm bill (P.L. 104-127) reauthorized the program through 2002. *[Section 148]*	
5. Dairy Indemnity Program Authorized in 1964, the dairy indemnity program indemnifies dairy farmers and processors who, through no fault of their own, suffer income losses due to contamination of milk or dairy products caused by pesticides and certain other toxic substances. Legislative authority expired September 30, 1995. However, annual appropriations have been made subsequent to program expiration.	Reauthorizes the program through September 30, 2007. *[Section 1503(b)]*
6. Fluid Milk Processor Promotion Program The Fluid Milk Promotion Act of 1990 (contained within the 1990 farm bill (P.L. 101-624)), as amended, authorized a research and promotion program for fluid milk products. *[Sections 1999A-1999R]* The program is funded through an assessment on fluid milk processors who handle more than 500,000 lbs. of fluid milk products each month. The 1996 farm bill (P.L. 101-624) extended program authority through December 31, 2002. *[Section 146]*	1) Gives permanent authority to the fluid milk promotion program; 2) strikes the statutory definition of a fluid milk product and uses the definition promulgated in USDA regulations; and 3) changes the definition of a fluid milk processor for the purpose of the required assessment, to exclude any fluid processor that handles less than 3 million pounds of fluid milk products each month. Fluid milk delivered directly to consumer residences does not count toward the 3 million pound minimum requirement for the processor assessment. *[Section 1506]*
7. Dairy Promotion and Research Program The Dairy Producer Stabilization Act of 1983 authorized a national dairy producer program for generic dairy product promotion, research, and nutrition education. The program is funded through a mandatory 15-cent per hundredweight assessment on all milk produced and marketed in the contiguous 48 states. Dairy farmers administer the program through the National Dairy Promotion and Research Board.	1) Extends the 15-cent assessment to imported dairy products. The 15-cent assessment is to be paid to U.S. Customs by the importer on the equivalent of milk that went into the manufacturing of the imported product. 2) None of the importer-collected funds can be used for foreign market promotion. 3) Importers must be represented on the Board in the same proportion that imported dairy products comprise the total U.S. dairy market. 4) The Secretary of Agriculture is required to consult with the U.S. Trade Representative to determine whether this provision is compatible with U.S. trade obligations. 5) Dairy products must be promoted without regard to the

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	country of origin of the product. *[Section 1505]*
8. Dairy Product Mandatory Reporting The Dairy Market Enhancement Act of 2000 (P.L. 106-532) established a mandatory reporting system for dairy product inventories and prices. It requires USDA's National Agricultural Statistics Service to regularly collect data on the prices and inventories of cheese, butter and nonfat dry milk sold by dairy manufacturers.	Amends the 2000 act to include "substantially identical products designated by the Secretary (of Agriculture)" as part of the mandatory reporting system. Changes the definition of a covered dairy product to include "substantially identical products designated by the Secretary." *[Section 1504]*
9. Dairy Studies No provision in previous law.	Requires the Secretary of Agriculture to submit to Congress two reports. Both are due by May 13, 2003. 1) A comprehensive economic evaluation of national dairy policies (i.e., the price support program, federal milk marketing order, over-order premiums and state pricing programs, dairy compacts and export programs) and their effect on the farm and rural economy, domestic food and nutrition programs, and consumer costs. 2) A series of studies on a) the market effects of terminating all federal dairy programs relating to price support and supply management; and b) the effects of changing the standard of identity for fluid milk so that the required minimum protein content of fluid milk is commensurate with the average nonfat solids contents of farm milk directly from the cow. *[Section 137]* [Note: California has a standard of identity for fluid milk that requires a nonfat solids content higher than the national requirement and higher than the average content of raw milk from the cow.] *[Section 1508]*

Legislation

P.L. 108-7 (FY2003 Consolidated Appropriations Resolution)

Division N, Title II contains $3.1 billion in supplemental disaster assistance for farmers and ranchers, including an extension in the cutoff date for eligibility in the Livestock Compensation Programs, $250 million in direct payments under a 2001-2002 Livestock Assistance Programs, and a $250 million reimbursement of Section 32 for previous outlays for the Livestock Compensation Program. Signed into law February 20, 2003.

H.R. 324 (Vitter)

To restore the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact, a Pacific Northwest Dairy Compact, and an Intermountain Dairy Compact. Introduced January 8, 2003; referred to Judiciary Committee, subcommittee on commercial and administrative law.

H.R. 1659 (Nunes)

Requires the regulation of the price of milk sold by a processor from a region that is regulated by federal milk marketing orders to a region not under federal order regulation. Introduced April 8, 2003, referred to the House Agriculture Committee. Referred to the subcommittee on Department Operations, Oversight, Nutrition and Forestry on April 11, 2003.

H.R. 1990 (Sanders)

Establishes a counter-cyclical income support program for dairy producers, through September 30, 2011. Fluid milk processors would be required to make payments to a trust fund in any month when the base farm price of milk used for fluid consumption falls below $13.25 per hundredweight (cwt.). The federal government contributes to the fund when the weighted average base price for milk used for cheese falls below $13.25 per cwt. in any month. Dairy producers can receive payments from the fund on eligible production up to 500,000 lbs of milk per month. Introduced May 12, 2003; referred to Agriculture Committee.

S. 40 (Feingold)

Quality Cheese Act of 2003. Prohibits products that contain dry ultra-filtered milk products or casein from being labeled as domestic natural cheese. Introduced January 7, 2003; referred to Agriculture Committee.

S. 560 (Craig), H.R. 1160 (Sherwood)

Imposes tariff-rate quotas on certain casein and milk protein concentrates. S. 560 was introduced January 14, 2003; referred to Finance Committee. H.R. 1160 was introduced March 17, 2003; referred to Subcommittee on Trade of the Ways and Means Committee,