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Dairy Policy Issues

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Ralph M. Chite
Resources, Science, and Industry Division

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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. Identical pending bills (H.R. 1160 and S. 560) would impose tariff rate quotas on certain MPCs; 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. Meanwhile, the International Trade Commission is investigating the market effects of MPC imports and is expected to release its findings in spring 2004.

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). Included in the enacted 2002 farm bill are a reauthorization of the dairy price support program, 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.). Each month in the first half of 2003, the minimum price of farm milk used for cheese, butter, and nonfat dry milk fell below the support price of $9.90. Dairy farm groups contend that USDA purchase prices for surplus dairy products may be set too low to support farm milk at $9.90. Consequently, the conference report on the pending FY2004 omnibus appropriations bill (H.R. 2673) contains a provision that would require USDA to be more diligent in supporting farm milk prices at $9.90, or lose funding for the administration of the price support program.

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 Milk Income Loss Contract (MILC) 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.

For the first two years of the program, farm milk prices were sufficiently low that payments were triggered in each of the first 21 months. For the last 4 months of 2003, market prices rebounded to the point that payments were not required. However, market farm milk prices softened towards the end of 2003 requiring direct payments to be made in in January and February 2004. 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.

Most Recent Developments

A provision in the enacted FY2004 omnibus appropriations measure (P.L. 108-199, H.R. 2673) requires USDA to be more vigilant in supporting the farm price of milk at $9.90 per hundredweight, as required by law, or funding for the administration of the program will be prohibited. The minimum price of farm milk used in the production of cheese fell below $9.90 per cwt. in each month in the first half of 2003, prompting support of this provision by dairy producer groups. USDA contends that despite monthly declines in the farm price of milk for certain manufactured uses, its legislative mandate is to support the overall price of milk at $9.90, and not monthly fluctuations.

On December 11, the U.S. International Trade Commission conducted a public hearing on the market effects of imports of milk protein concentrates (MPCs), as requested by the chairman of the Senate Finance Committee. MPCs, which are almost exclusively imported, are used by certain food manufacturers for their physical properties and high protein content. Dairy producer groups contend that the importation of MPCs displaces domestic milk production and contributes to low farm milk prices. They are seeking legislation (H.R. 1160, S. 560) that would impose tariff rate quotas on MPCs. Dairy processors are opposed to this legislation, which is pending in the 108th Congress.

Separately, the federal Milk Income Loss Contract (MILC) program, as authorized by the 2002 farm bill, provides direct payments to eligible farmers in any month when the market price of milk falls below a legislatively determined threshold price. After reaching a 25-year low in the spring of 2003, market farm milk prices rebounded in the second half of the year. Consequently, for the first time since the inception of the Milk Income Loss Contract (MILC) program, no monthly direct payments were made to participating dairy farmers during the last 4 months of 2003. However, farm milk prices have softened in recent weeks requiring MILC payments to be made in January and February 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 and casein (the main protein found in milk) 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]. According to International Trade Commission data, MPC imports peaked in 2000 at 52,677 metric tons, before falling back to 28,469 metric tons in 2001, and rising again to 33,626 metric tons in 2002 and 29,111 metric tons in the first 10 months of 2003 (7.8% higher than the first 10 months of 2002). Imports of casein have also risen over the years, peaking at 74,230 metric tons in 2000, before declining in 2001 and 2002, but rising again in 2003 on a pace with the peak in 2000.

Currently, MPC is not 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 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 act a Senate provision that would have prohibited FDA from issuing any regulations that would allow MPC as an ingredient in the production of cheese.

Bills have been introduced in the 108th Congress that would affect the importation and use of MPCs: 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 (IDFA), who contend that MPC imports are not displacing U.S. production of nonfat dry milk. IDFA and other MPC-user groups contend that MPCs have certain properties that are important in the manufacturing of certain food products (e.g. high-protein sport drinks and food bars) and that nonfat dry milk is not a substitute for the use of MPCs. These groups also maintain that the domestic support price for nonfat dry milk should be reduced instead, as a way to stimulate the market for domestic powder. (For more information on the dairy price support program, see the section on the program 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. As part of its investigation process, the ITC conducted a public hearing on the "Conditions of Competition for Milk Protein Products in the U.S. Market" on December 11, 2003, with numerous witnesses from milk producer groups, MPC users, foreign dairy groups, among others.

Milk Income Loss Contract (MILC) 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, dairy processors and Upper Midwest producers are strongly opposed to regional compacts.

MILC Payment Mechanics

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 did 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 MILC program, 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 were made retroactively to December 1, 2001.

The MILC program is akin to 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 full 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 MILC 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.

MILC Payment History

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. Monthly market prices were sufficiently low between December 2001 and August 2003 that MILC payments were made in every month during this period. Beginning in the late summer months, market farm milk prices greatly improved, rebounding from a 25-year low that prevailed throughout most of the earlier months of 2003. Hence, no MILC payments were required in September through December 2003. However, farm milk prices began to decline again in the latter part of 2003. Consequently, MILC payments resumed in January and February 2004. (See Table 1.)

Estimated Federal Cost of the MILC Program

The current estimated total cost of the MILC program over its 4-year life is approximately $4 billion, significantly higher than estimates offered in 2002 when the program was being formulated. Based on market conditions in March 2002 (during the farm bill debate), 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 throughout much of 2003 were 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), and an estimated $1.1 billion in FY2004.

Table 1. Monthly Milk Income Loss Contract (MILC) Payment Rates

Month	Payment Rate (per hundredweight)	Month	Payment Rate (per hundredweight)
December 2001	$0.77	December 2002	$1.43
January 2002	$0.78	January 2003	$1.41
February 2002	$0.78	February 2003	$1.56
March 2002	$0.93	March 2003	$1.75
April 2002	$1.00	April 2003	$1.82
May 2002	$1.09	May 2003	$1.79
June 2002	$1.20	June 2003	$1.78
July 2002	$1.38	July 2003	$1.76
August 2002	$1.45	August 2003	$1.22
September 2002	$1.45	Sept .- Dec. 2003	$0.00
October 2002	$1.59	January 2004	$0.83
November 2002	$1.39	February 2004	$0.945

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.

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.)

Dairy Provision in the FY2004 Omnibus Appropriations Act

A general provision in the FY2004 omnibus appropriations act (P.L. 108-199, H.R. 2673) requires the Secretary of Agriculture to more diligently support the farm price of milk at the farm bill-mandated support price of $9.90 per hundredweight (cwt.), or lose funding for the administration of the program. Supporters of this provision argue that the government purchase prices for manufactured dairy products are set too low by USDA to support the farm price of milk at $9.90 per cwt. In the first half of 2003, the market price of farm milk used for cheese, butter and nonfat dry milk remained consistently below the $9.90 support price. USDA officials say they are evaluating the situation and point out that the authorizing statute for the dairy price support program (P.L. 107-171, the 2002 farm bill) requires USDA to set dairy purchase prices so that the annual farm milk price on average is supported at

$9.90, not the monthly price. Farm milk prices improved significantly in the second half of 2003 when farm milk prices averaged well above the support price.

Table 2. Commodity Credit Corporation Dairy Price and Income Support Operations, 1980/81-2002/03

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.

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 May 31, 2002 *[Section 772(a)*]	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]*
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	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

Previous Law/Policy	Enacted 2002 Farm Bill Dairy Provisions
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.	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 subsequent farm bills. Most recently, the 1996 farm bill (P.L. 104-127) reauthorized the program through 2002. *[Section 148]*	 Extends program authority through 2007. *[Section 1503(a)]*
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	 Reauthorizes the program through September 30, 2007. *[Section 1503(b)]*

Previous Law/Policy	Enacted 2002 Farm Bill Dairy Provisions
to program expiration.	
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 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]*

Previous Law/Policy	Enacted 2002 Farm Bill Dairy Provisions
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. 108-199, H.R. 2673 (Bonilla)

Originally introduced as the FY2004 agriculture appropriations bill, and subsequently became the vehicle for the FY2004 Omnibus Appropriations bill. The conference agreement (H.Rept. 108-401) contains a provision that requires USDA to support the farm price of milk at $9.90 per hundredweight (cwt.) as required by the 2002 farm bill, or USDA will lose funding for the administration of the program, effectively blocking the program. Originally introduced in the House on June 25, 2003; passed by the House on July 14, 2003; and amended and passed by the Senate on November 6, 2003. H.R. 2673 became the vehicle for the omnibus appropriations bill when it was reported by conferees on November 25, 2003, as H.Rept. 108-401. Conference agreement adopted by the House on December 8, 2003 and by the Senate on January 22, 2004. Signed into law January 23, 2004.

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 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.

H.R. 3308 (Dooley)

Makes the dairy forward pricing pilot program a permanent program. The dairy forward pricing pilot program allows certain milk processors that are regulated under federal milk marketing orders to contract for future deliveries of milk from milk producers or their cooperative associations at prices exempt from minimum federally mandated prices. The pilot program, which expires at the end of 2004, is voluntary, and the exemption applies only to milk used for non-fluid purposes. Introduced October 16, 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.