

Questions and Answers related to a proposed Federal milk marketing order in California.

This working document represents Dairy Programs current thinking on certain topics. It is not intended to present binding department policy. As new details become available related to the proposed Federal milk order in California, answers may be modified. For addition information, please contact a USDA Dairy Marketing Specialist at 202-720-4392.

1. Who could participate in a hearing on California becoming a Federal milk order?

Federal milk order hearings are open to the public, including people from other regions. Anyone can participate. Individuals testifying at the hearing are subject to cross examination. Anyone attending a hearing can cross examine witnesses. A USDA appointed Administrative Law Judge oversees the hearing proceedings to maintain order and fairness for the process.

The Notice of Hearing defines the scope of the hearing and what topics and proposals will be considered. Hearing participants may only provide information relevant to the scope of the hearing.

Please see: <http://www.ams.usda.gov/FederalMilkMarketingOrders>

2. I heard that a Federal milk order hearing can take a long time.

Federal milk order hearings can be lengthy because any interested party can testify and anyone can cross-examine witnesses. Administrative Law Judges preside over the hearings to help them run fairly, quickly, and efficiently.

When deciding whether a new milk order should be established or whether an existing order should be changed, the USDA must rely on the "hearing record." This means that decisions can only be based on what is said at the hearing, data presented at the hearing in the form of "exhibits", officially noticed documents, and "briefs" submitted after the close of the hearing. For these reasons, it is very important to get as much relevant data and testimony as possible into the hearing record. This can be time consuming, but ensures a fair and complete process.

3. How long would it take to implement a new Federal order for California?

Changing from a State-operated program to a Federal order would be a significant shift. While there are similarities between the systems, sufficient time needs to be provided for an orderly transition. USDA will work with the industry and California Department of Food and Agriculture to ensure timely implementation.

4. Would a California order automatically adopt the current Federal milk order price formulas?

Federal milk order pricing formulas are identical in all Federal orders. We anticipate that a California order would adopt the same pricing formulas. However, an interested party can propose an alternative milk pricing scheme for California. If an alternative pricing scheme is proposed for California, then the proponents would need to provide economic justification at the hearing as to why the Department should adopt the alternative. Currently, six Federal milk orders operate under a multiple component pricing system, while four orders operate under a skim and fat only system.

5. What are the differences between the FMMO price formulas and the California price formulas?

Current Federal milk order price formulas can be viewed here:

<http://www.ams.usda.gov/PriceFormulas2012>

Current California State milk order price formulas can be viewed here:

[http://www.cdfa.ca.gov/dairy/howto\\_calc\\_prices\\_main.html](http://www.cdfa.ca.gov/dairy/howto_calc_prices_main.html)

6. How does a producer referendum operate in the Federal milk order program?

Establishing a new Federal milk order or changing an existing order must be approved by dairy farmers through a voting process called a referendum. Of those participating in a referendum, either two-thirds of the dairy farmers voting or producers representing two-thirds of the milk produced during a designated month must approve the issuance of a new Federal order or an amendment to an existing order.

7. If my cooperative decides to bloc vote, can I still request my own individual ballot?

No, Federal orders do not allow for modified bloc voting. Therefore, if a cooperative decides to bloc vote, individual ballots will not be mailed to its members. The cooperative has the option to not bloc vote and request ballots be sent to all its members.

8. Who will be allowed to participate in a California producer referendum?

Any dairy farmer producing milk and associated with the proposed order during a certain representative month (typically the month the hearing is held) would be allowed to vote in a referendum. Each dairy farmer gets one vote, even if they belong to more than one cooperative or own more than one farm.

9. Will California fluid milk fortification standards still exist if California joins the Federal order system?

California fluid milk fortification standards are based on California state regulations that are different from the regulations authorizing the milk pooling and marketing plans. Federal law

prohibits any changes to the California solids standard (see, [7 USC 7254](#)). Adoption of a Federal order cannot change the state standards.

Federal milk orders price nonfat solids used to fortify fluid milk slightly different than the current California state order. In Federal orders, fluid milk bottlers are required to account to the pool for any increase in total milk pounds resulting from fortification and do not receive any kind of fortification credits.

10. What is in the 2014 Farm Bill regarding California becoming a Federal milk order?

The 2014 Farm Bill contains a provision to allow California producers to request a Federal milk marketing order that recognizes the California quota program.

11. How much more money will I make on my milk when California adopts a Federal order?

This depends on the details in what is proposed. Once a complete proposal is submitted, USDA intends to conduct an economic impact analysis to simulate and estimate comparisons between the current system and the proposed Federal order.

Federal milk orders are not an income enhancement tool. They are a combination of marketing tools that, among other things, provide a regulated minimum price that dairy farmers must be paid for pooled milk.

12. Can a Federal milk order require a handler to participate in an order?

Currently, Federal milk orders require fluid milk bottlers to participate in the pool every month. Non-fluid handlers have the option of participating in the pool each month. When non-fluid handlers previously participating in the marketwide pool elect to not pool milk, it is described as "de-pooling." Some Federal orders have pooling provisions that deter de-pooling by restricting the volume of milk that can be re-pooled after leaving.

13. How did the quota plan function in Oregon?

Prior to 1970, the State of Oregon operated a quota plan for Oregon producers. During the rulemaking process to establish the Oregon-Washington Federal order, producers requested authority for the State of Oregon to operate a voluntary quota plan for producers located in Oregon. The State-managed program operated concurrently with the Oregon-Washington Federal milk order which included a separate base/excess plan. Each month, the Oregon-Washington Federal milk order would transfer the Oregon proceeds from the milk pooling process to the State of Oregon. The State then redistributed available money through the Oregon Quota/Base price plan.

14. Did de-pooling lead to the demise of the Oregon quota plan?

It was not de-pooling, but the pooling of a lot more milk on the order, that was not from producers participating in the voluntary Oregon quota plan, that fueled its demise. Over time, this led to a decline in the total percentage of milk pooled as Class I, and a decline in the total dollars available to the producer settlement fund. Producers realized that they could enjoy

higher returns from the Federal order blend base-excess price compared to participating in the Oregon Quota/Base price program. By 1987, less than one third of Oregon's dairy industry participated in the State's voluntary program and it was abolished.

15. How does the Virginia quota program operate?

The State of Virginia operates a base plan. A dairy farmer does not have to be a resident of Virginia to own quota, and most of the quota is owned by cooperatives.

Please refer to the State of Virginia website here: <http://www.vdacs.virginia.gov/smc/>

16. Are California farmers paying for USDA travel and outreach for an anticipated hearing?

No, California dairy farmers are not paying for the expenses associated with pre-hearing and hearing activities related to establishing an order for California. The only expenses incurred by the California dairy industry are those related to personal involvement in attending and having representation at the pre-hearing and hearing activities. Usually, Federal milk order amendment hearings are paid for by the specific milk order to which the proposed change in order provisions applies. Since this is a promulgation (new order) hearing, the entire cost will be borne by the USDA. If a California Federal order is established after a producer referendum, the cost for maintaining the program will be funded through an assessment on pooled handlers.