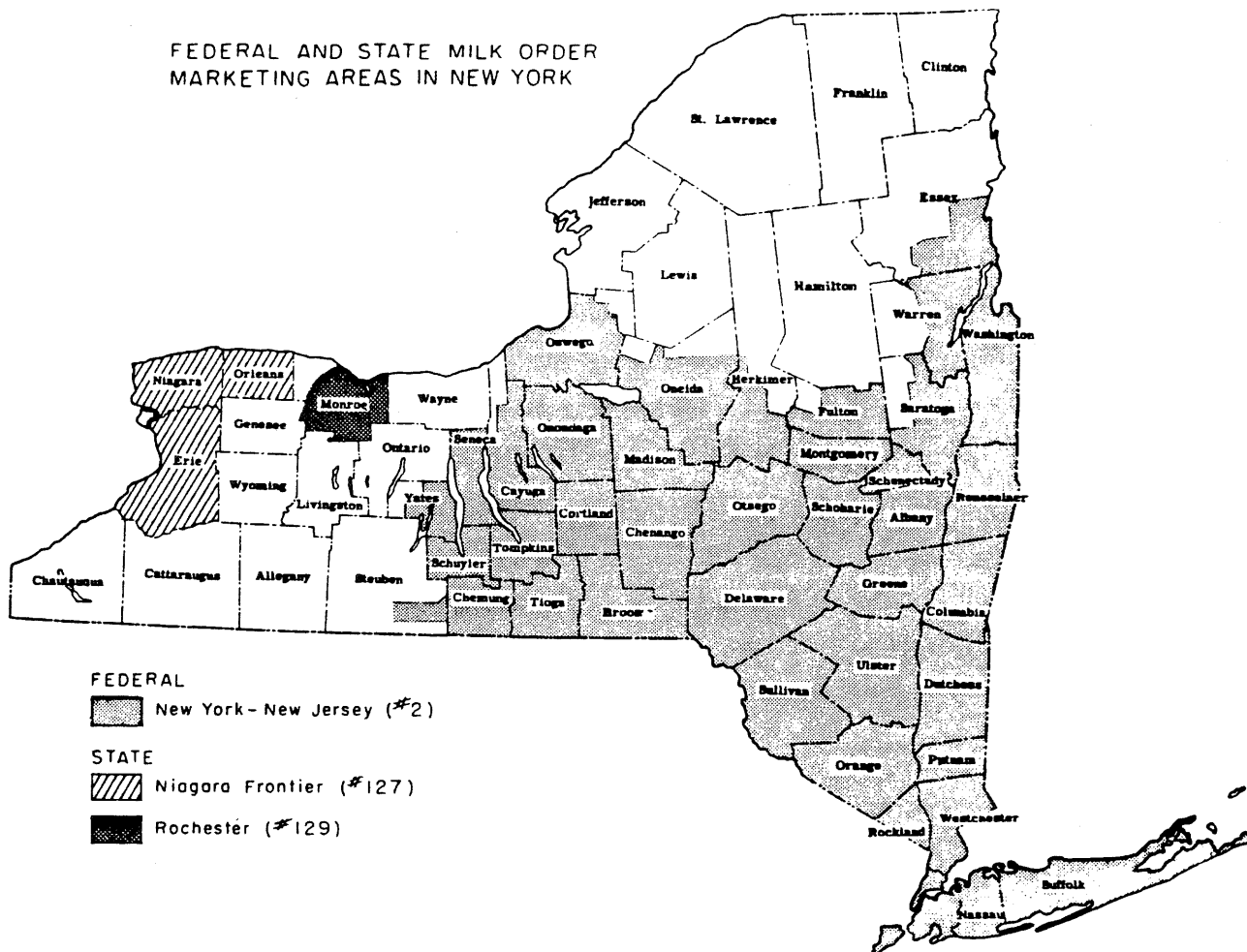


A PRIMER ON FEDERAL AND STATE MILK MARKETING ORDERS IN NEW YORK



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Preface

Harry M. Kaiser is an Assistant Professor in the Department of Agricultural Economics at Cornell University. There are many people who provided an enormous amount of help in the preparation of this report. The thorough review of an earlier draft of the paper by Robert Story is especially appreciated. The useful comments and suggestions by Norm Garber, Andrew Novakovic, and Robert Wellington are gratefully acknowledged. Finally, Deborah Streeter and Walter Wasserman provided helpful comments on an earlier draft of this report. The manuscript was prepared for publication by Wendy Barrett.

This report is the second in a two part series that looks at Federal milk marketing orders in the U.S. and in New York. In the first paper (entitled "A Primer on Federal Milk Marketing Orders in the United States," A.E.Ext. 86-15, Department of Agricultural Economics, Cornell University, April 1986), an overview of the nation's Federal milk marketing order program is presented. In this companion report, the State and Federal order programs in New York are described. It is helpful to use the preceding paper on Federal orders as a reference for this report because it explains some of the provisions mentioned, but not defined, in this paper.

The literature on milk marketing orders is voluminous. However, the literature on New York specific Federal and State orders is not so abundant. Furthermore much of what has been written on the state's milk marketing orders is either easy to understand, but very general, or quite detailed, but difficult to comprehend (e.g. Code of Federal Regulations for Marketing Orders). The intent of this report is to present in more detail and in more clarity a description of these programs. The information in this report draws from a number of references on Federal orders, which are listed in the reference section of the paper. Three sources that were drawn upon the most and ones that are recommended as supplemental readings for this paper are:

Story, R.P. "The Development of Market Structure and Pricing Methods in New York Markets." Unpublished Mimeograph, Department of Agricultural Economics, Cornell University, 1979.

Quinn, W. and W. Wasserman. "The Dairyman's Guide to Milk Marketing." A.E.Ext. 83-19, Department of Agricultural Economics, Cornell University, September 1983.

U.S. Department of Agriculture, Dairy Division, Agricultural Marketing Service. Summary of Major Provisions in Federal Milk Marketing Orders. Washington, D.C., July 1984.

In addition, much of the information contained in this paper comes from conversations with the people acknowledged above.

Additional copies of this bulletin can be obtained from the author or from:

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A Primer on Federal and State Milk Marketing Orders in New York

Introduction

The marketing of milk in the U.S. is a highly regulated and complex process. The prices received by dairy farmers for their milk is influenced significantly by the combined effects of the government price support program and a system of milk marketing orders. Federal marketing orders currently define the terms and conditions for about 81% of all fluid grade (Grade A) milk marketed nationwide. Much of the remaining Grade A milk is sold under state marketing orders.

In New York, about 98 out of every 100 dairy farmers sell their milk to handlers regulated by milk marketing orders. The payments for milk sold by these New York dairymen are defined by three (sometimes four) Federal and two State marketing orders.

The purpose of this paper is describe the current milk marketing orders (Federal and State) operating in the state of New York. A knowledge of these programs is essential for those interested and involved in the state's dairy industry. The paper is divided into four main sections. In the first section, a historical background of conditions leading to the emergence and enactment of milk marketing orders in New York is discussed. This is followed by an examination of the specific Federal orders which affect New York producers. An overview of State milk marketing orders in New York is covered in the third section of this report. In the final section, the Federal and State milk marketing orders in New York are examined in terms of farm numbers and volume of milk covered by each of them. The report concludes with a brief reiteration of the major points made in the paper.

Conditions Leading to the Emergence and Enactment of Milk Marketing Orders in New York¹

The emergence and enactment of milk marketing orders in New York closely parallels the emergence of Federal orders in the nation (see the accompanying report for a national perspective on the development of Federal orders). The stimulus for these pricing institutions came primarily from the lack of bargaining power dairy farmers had and the unsuccessful attempts made by cooperatives in achieving sustained bargaining power prior to the adoption of these programs. Several inherent characteristics of milk and milk markets

¹The source for this section is based exclusively on Story (1979). This reference is particularly useful for anyone interested in a more detailed description of the development of milk market structure and pricing methods in New York.

explain why producers had little control over the price they received for their product.

First, milk in its natural state is a highly perishable product which is produced daily and must be moved quickly to the market or it will spoil. Because of this, producers cannot hold their milk while they negotiate with buyers on a satisfactory price. This put dairy farmers at a disadvantage relative to buyers in price negotiations--they basically had no choice other than either accepting the handler's price or dumping their milk.

A second problem in pre-marketing order times was that milk markets were highly localized and were characterized by a small number of buyers relative to farmers. Most farmers did not have many alternative outlets for their milk, which also put them in the situation of being "price takers" for their product. This problem became more severe with the advent of large scale marketing firms in urban markets, which caused even more imbalance in the bargaining position between small producers and large handlers of milk.

Finally, because milk is so perishable, more of it is required to meet fluid consumption than is actually consumed. The supply of raw milk fluctuates seasonally due to biological characteristics of milk production. Milk production tends to be highest in the spring/summer months and lowest in the fall. The excess of total supply of raw milk over fluid demand (reserve supply) is used to produce less perishable products like cheese and butter. However, the prices paid for milk going into these dairy products are lower than price paid for milk used in fluid products. The seasonal imbalances in the supply of milk, in some cases, caused large seasonal price variability and extremely low prices in spring flush periods.

These factors explain the lack of bargaining power producers had prior to the era of collective action on the part of farmers. In the New York City market, the era of price domination by buyers of milk lasted from 1880-1916. During this time, producers launched a number of efforts to organize in an attempt to gain some bargaining position over prices. However, these efforts were for the most part unsuccessful or short term because New York buyers could find available supplies from farmers in other areas.

One of the first successful actions in New York to collectively gain control over the price of milk was a strike organized by the Dairymen's League in 1916. The Dairymen's League Association was formed in 1909 and by 1915 had just under 15% of the state's farmers as members by 1915. In 1916, the League announced that it would not accept prices set by milk buyers and the buyers announced that they would not pay the higher prices set by the League. Members of the cooperative were asked to withhold their milk. The strike was successful because a large enough number of independent dairymen decided to joined the League in withholding milk from buyers.

After the successful strike, the Dairymen's League membership grew and reached 100,000 members, 80% of the state's dairy farmers, by 1919. However, shortly after World War I, the League had a difficult time maintaining the price structure it established during the war due to losses in demand from disappearing export markets. The Association, faced with these problems,

reorganized and began raising capital from its members in order to build plants. The League also introduced a system of classified pricing and pooling, which enabled them to maintain a higher price for milk used in fluid products and an outlet for excess milk for manufacturing markets. Members received a uniform price which was based on pooling the revenue from the two markets.

The changes set forth by the reorganized cooperative, however, were not popular with many farmers in New York. Membership began to fall and, by 1921, dropped to 50,000 producers. Moreover, the League's classified pricing system became less effective as more members quit and fluid buyers found other outlets. Fluid buyers stopped buying milk from the League and instead bought milk from individual producers, typically at a price a little higher than the League's uniform price, but lower than the League's fluid class price. Similar to the rest of the nation, events worsened and then the Depression struck.

State Action

In the early 1930's, the League lobbied state government officials to provide assistance in raising producer prices. A joint committee was formed to study the problem in 1932, which resulted in the passage of the first Milk Control Law in 1933. This legislation established a temporary Milk Control Board, which was granted powers to fix minimum retail prices, minimum class prices to be paid by milk handlers, and authorized licenses to dealers. The license provision, which required any dealer handling milk in New York to have a license issued by the state, was a means of enforcing the provisions of the law. Soon after the Board was established, action was taken to set both minimum retail and class prices. However, the fixing of retail prices had little impact on prices paid to farmers and this part of the Act was eventually phased out.

Many of the provisions of the 1933 legislation were included in subsequent legislation from 1934 to 1936. In 1934, the Division of Milk Control was established as a part of the Department of Agriculture and Markets and it replaced the Milk Control Board in its functions.

The provisions of the legislation enacted during this period encountered a number of obstacles. The primary problem was enforceability of minimum classified prices on milk handlers from other states. Over 30% of New York's milk supply was bought from handlers in New England, New Jersey, and Pennsylvania. The Division of Milk Control attempted to use the license provision as a means of enforcing minimum class prices for all buyers, including out-of-state sales. However, this action did not prove to be very effective and it was eventually ruled unconstitutional by the U.S. Supreme Court. Because of this, New York buyers were at a disadvantage relative to out-of-state buyers because the first group, in essence, was required to pay higher prices than the latter. This led to disorder in the market.

At about the same time the federal government passed the Agricultural Marketing Agreement Act of 1937, which authorized Federal milk marketing

orders, New York legislators passed a revised Milk Control Law as an alternative method to deal with out-of-state milk handlers. The old price fixing provisions of earlier legislation was replaced by several provisions aimed at increasing producer bargaining power. The Law authorized the formulation of Producer (and Dealer) Bargaining Associations, allowed the Commissioner of Agriculture and Markets to confer with authorities in other states and the Federal government to establish uniform control among states, and gave the right of promulgation of price fixing orders to Producer Bargaining Associations having at least 35% of the market's producers.

Not long after this, Producer and Dealer Bargaining Associations were formed for the New York Metropolitan and Niagara Frontier markets. The two groups jointly developed a marketing agreement for each market, which became effective in the summer of 1937. Because marketing agreements are not mandatory, not all dealers signed the agreement. Although the agreement worked relatively well for several months, the agreement broke down soon after due to price cutting actions by non-signers.

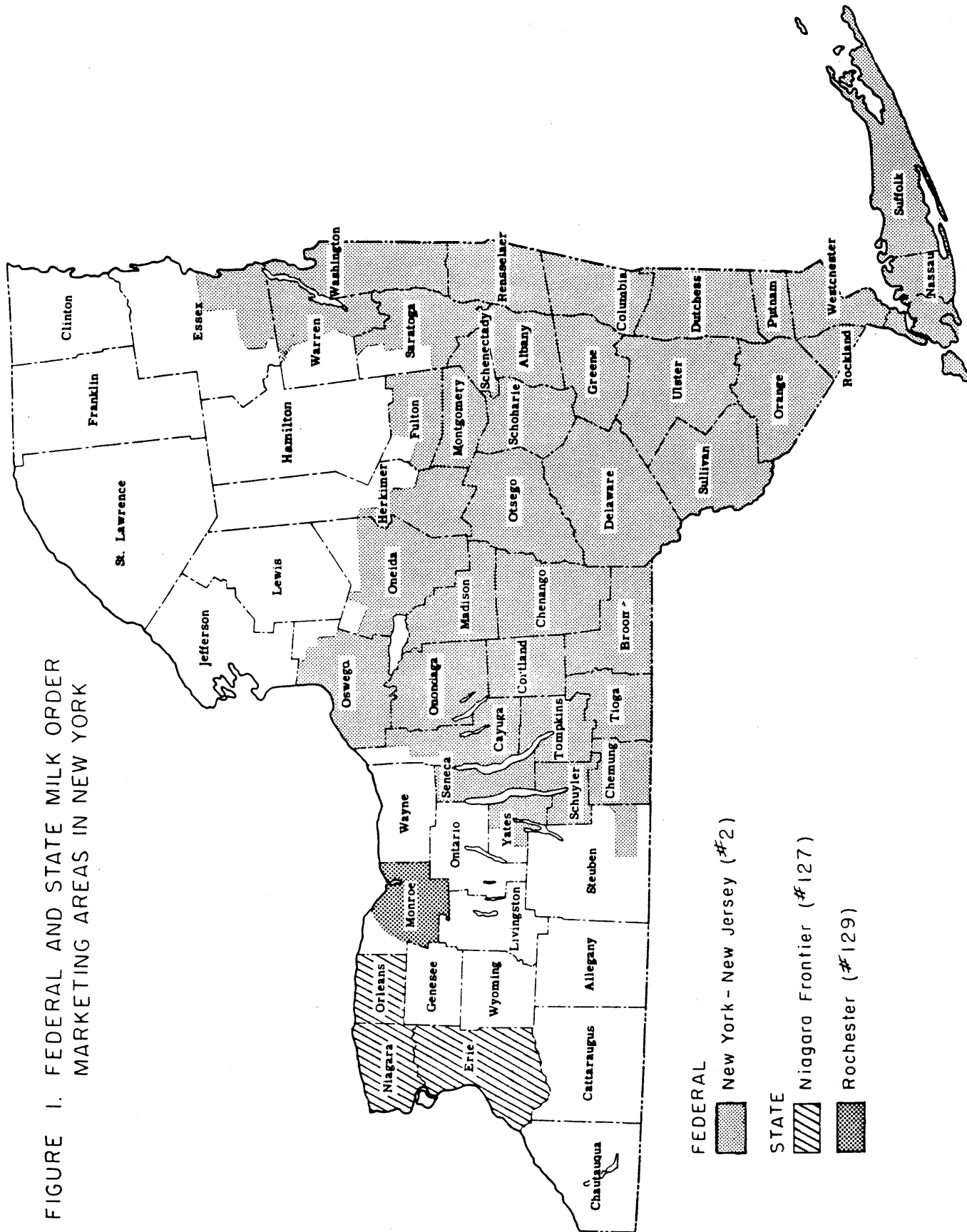
In response, the Producer Bargaining Associations began work on a joint Federal-State order for the Metropolitan market and a State order for the Niagara Frontier market. In the summer of 1938, hearings were held and a joint Federal-State order in the Metropolitan market and a State order in the Niagara Frontier market were approved. A system of classified pricing and pooling were instituted for the first time since the Dairymen's League program 20 years earlier. Both orders were temporary suspended, but quickly reinstated after the Supreme Court ruled that marketwide equalization of returns was not in violation of the Equal Protection Clause of the Fifth Amendment in the Rock Royal and Hood cases. These Court decisions became the legal basis for Federal and State milk marketing orders in New York. Both orders were reinstated after these decisions and another State order was shortly thereafter promulgated in the Rochester marketing area.

Federal Orders in New York

The three Federal orders regulating the prices paid for milk produced by New York farmers are Order #1 (New England marketing area), Order #2 (New York-New Jersey marketing area), and Order #36 (Eastern Ohio-Western Pennsylvania marketing area). At times, New York producers also sell their milk to handlers regulated by Order #4 (Mid-Atlantic marketing area). Although some state dairymen sell to handlers regulated by Orders #1 and #36, only Order #2 has a defined marketing area within New York State (see Figure 1). Of the three Federal orders, Order #2 is by far the most important to New York dairy farmers in terms of milk volume and number of producers in the state affected by it. Because of this, the discussion of Federal orders in New York will concentrate on Order #2.

Federal Order #2 became effective in 1938, shortly after the passage of the Agricultural Marketing Agreement Act of 1937. It began as an order whose marketing area covered the metropolitan market of New York City, Long Island, and Westchester. Since 1939, Order #2 has continuously operated and has significantly affected dairy farmers, handlers, and consumers in the region.

FIGURE 1. FEDERAL AND STATE MILK ORDER
MARKETING AREAS IN NEW YORK



The marketing area of Federal Order #2 remained the same until 1957. A major change in the marketing area occurred in 1957, when the order expanded into 13 northern counties of New Jersey and Upstate New York. Currently, the marketing area of this order covers all or parts of 38 counties in New York. The New York portion of the marketing area extends as far west as Oswego, Cayuga, Yates, Schuyler, and Chemung counties and as far north as Oneida, Fulton, Warren, and Essex counties. All New York counties southeast of these boundaries are included in the marketing area.² A map of the marketing area in New York is shown in Figure 1.

The New York-New Jersey Order is somewhat of an exception to other Federal orders in that it is a joint Federal-State marketing order. The two states issue concurrent orders for that portion of Order #2's marketing area within their respective state, which in all respects are identical to the Federal order. Technically, this order is actually three orders, namely 1) the New York-New Jersey Federal order (Order #2), 2) a New York State order (Order #126), and 3) a New Jersey State order (Order #57-3). The Market Administrator for all three orders is appointed by the Secretary of Agriculture with concurrence by the two states. Thus, the Administrator acts as a representative of New York and New Jersey, as well as the Secretary of Agriculture.

Federal Order #2 uses a two-class milk utilization system to price fluid grade milk. Unlike most Federal orders, Order #2 has priced milk f.o.b. the township in which the farm is located, which is called farm point pricing. Although Order #2 in theory still uses farm point pricing, in reality recent order revisions make it more like plant point pricing because of the credits handlers receive for hauling the milk from the milk house to the plant. Handlers receive a \$0.15 per hundredweight transportation credit through the pool and may deduct the cost of transporting milk from each farmer. Thus, the net effect is the farmer pays for the hauling cost less the \$0.15 credit.

Because milk is priced at the farm, Order #2 accounts for milk by a bulk tank unit (BTU) reporting procedure. This provision requires that accounting methods which record milk receipts be done at the farm rather than at the plant. It is used because of the farm point pricing provision in Order #2.

²Recently an amendment to Order #2 (and the Mid-Atlantic Order #4) to expand the two Federal milk marketing areas into Northeastern Pennsylvania on December 1, 1985 was approved by producers in these two orders in a referendum. However, a preliminary injunction against implementation of this amendment in Federal Orders #2 and #4 was issued on November 22, 1985 by the U.S. District Court for the Eastern District of Pennsylvania. This court order prevents the extension of the Order #2 marketing area into 15 counties and the Order #4 marketing area into 5 counties of Northeastern Pennsylvania until the case is settled. The injunction was sought by a number of handlers who distribute packaged milk within this 20-county area. Thus, there may be an expansion of Order #2 into Pennsylvania in the future, depending upon which way the court rules.

Class I and II prices, in Order #2, are based on the basic formula price, which is the monthly average price per hundredweight (cwt.) for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin adjusted to a 3.5% butterfat content (i.e. the M-W price). The basic formula price must be publicly announced on or before the 5th day of each month. The announced basic formula price is equal to the M-W price for the previous month. This is due to the fact that the previous month is the most recent M-W price available at the time of the announcement.

The Class I price is also announced on or before the 5th day of each month. However, the announced Class I price is applicable for the next month. For example, the Class I price for August is announced on or before July 5th and is equal to the June basic formula price plus a fixed fluid differential. As a result, milk handlers and producers know in advance the minimum Class I price they will pay or receive one month ahead of time.

The fixed fluid differential for Order #2 is currently \$2.25 per hundredweight for plants at the 201-210 mile zone, which is one of the zones measured in miles away from New York City.³ The Order designates freight zones, which are determined from an arc of basing points surrounding the New York-New Jersey metropolitan area, to adjust Class I prices on the basis of distance from the major marketing center. Handlers and producers in zones closer to the metropolitan area (the 201-210 mile zone or closer) have a positive differential added to their Class I price, while handlers and producers located farther than the 201-210 mile zone have a negative differential deducted from their Class I price.

Class II prices are publicly announced on or before the 5th day of each month as well. Unlike the Class I price, the Class II price applies to the previous month. For example, the Class II price announced in July is applicable to June. Monthly Class II prices, in Order #2, are equal to the basic formula price adjusted by a seasonal factor. The seasonal adjustment adds a positive amount to the Class II price in months where milk production is relatively low and subtracts an amount from the price in months where production is relatively high. On an annual basis, the positive and negative Class II seasonal differentials sum to zero. The difference between this adjustment and the Louisville Plan is the latter applies to the blend price and has the objective of evening out seasonal milk production, while the former applies to the Class II price and has the objective of adjusting the price of manufacturing grade milk so it clears the market, i.e. to benefit Class II handlers. Class II prices are also adjusted using the same freight zones as Class I

³Although the current fixed fluid differential in Order #2 is \$2.25 per hundredweight, the Food Security Act of 1985 mandates that on May 1, 1986, Class I differentials in 35 Federal orders (including Order #2) be increased. In Order #2, the increase in the Class I differential will be 30 cents per cwt. The increase in Class I differentials in all 35 Federal orders will be mandatory for at least two years, after which they may be suspended through normal order procedures.

prices. However, the locational differentials for Class II milk are substantially lower than those for Class I milk, reflecting the fact that fluid products cost more to ship than manufactured products to the central market.

Similar to other provisions in Federal orders, the blend price is based on marketwide fluid utilization of all pool milk, and Class I and II prices. Federal Order #2 uses the take-out, pay-back (Louisville) adjustment in the blend price. The plan works in the following manner. In the high production months of March, April, May and June, 20, 30, 40 and 40 cents per cwt, respectively, is subtracted from the blend price with proceeds placed in an interest-bearing account. Then, in the low production fall months of August, September, and October, 25%, 30%, and 30% respectively, of this fund is added back to the blend price. Finally, in November, the remaining funds plus interest is added to the blend price. In addition, Order #2 provides for three other adjustments in the blend price.⁴ First, as was mentioned previously, handlers are compensated for the cost of hauling milk through a 15¢/cwt. credit from the pool. Second, qualifying cooperatives receive payments from the pool for carrying out order activities and market services for nonmembers as well as their members in the order. They currently are entitled to a maximum payment of 4¢/cwt. on all milk delivered by their members, (1¢/cwt. of this is for maintaining facilities to handle reserve milk). This usually means about a 1-2¢/cwt. deduction in the blend price. Finally, a reserve fund is maintained monthly in order to balance out any discrepancies in the producer settlement fund and to provide revenue for terminating the order if mandated. This reserve is equal to about 8¢ per cwt. plus whatever fraction of a cent necessary to make the uniform price come out to even cents on all pool milk.

Three other provisions of Order #2 that are somewhat unique are the pass through, call, and designated pool plant status provisions. The pass-through provision allows regulated handlers (under a strict set of conditions) to pay less than Class I prices on fluid milk sold outside the marketing area. This is designed to maintain competition between Order #2 handlers and competing unregulated handlers. The call provision allows the Market Administrator to authorize minimum Class I shipments into the marketing area from all pool plants or units when fluid products are judged to be in short supply. Designated pool plants are plants that have been temporary pool plants for one year and have satisfied the performance standards in accordance with Order #2 rules. Once obtaining designated pool plant status, the plant no longer has minimum pooling requirements except when a call is issued.

State Orders in New York

⁴There are also several other adjustments in the blend price, but they are not noted here to make the discussion more simple and clear to understand. See any Market Administrator's uniform price announcement for these other adjustments in the blend price.

There are two State orders currently operating in Western New York: Order #127 (Niagara Frontier marketing area) and Order #129 (Rochester marketing area). As was noted in a previous section, these State orders are authorized by the New York Milk Control Law of 1933 as amended. The Niagara Frontier Order, which was established in 1938, has a marketing area encompassing three counties (Erie, Niagara, and Orleans counties). The Rochester order, which was promulgated in 1939, has a marketing area covering most of Monroe County, primarily the Rochester metropolitan area.

Although similar in many respects, these two orders have several key differences compared to Federal Order #2. One difference is that under the two state orders, farmers pay directly for moving the milk from the farm to the plant, i.e., they use plant point pricing. Federal Order #2 uses farm point pricing together with a transportation credit and a provision allowing handlers to recover hauling costs less the credit from farmers.

Another important difference is that producers pay for the administrative costs of the State orders, while handlers pay for these costs in Order #2. Procedurally, producers pay these costs through the handler, who deducts an amount determined by the Commissioner from the price paid to producers. The handlers are required to transfer this money, which cannot exceed 5¢ per cwt. on all producer milk, to the Commissioner for administering the program.

Like the New York-New Jersey order, the two State orders use a two class milk utilization system. The class prices are based on Order #2 prices, but are not the same. Class I prices are equal to the Federal Order #2 Class I price (201-210 mile zone) plus 46 cents. Class II prices are equal to the Federal Order #2 Class II price with the same seasonal adjustment minus 5 cents. Since the Rochester Order has higher fluid utilization rates than the Niagara Frontier Order, its blend price tends to be higher. The Order #2 blend price is also higher in the Rochester area than the Niagara Frontier since Rochester is closer to New York City.

The two State orders calculate the blend price quite similarly to Federal orders. The pool is adjusted by a Louisville plan that is identical to the Order #2 plan. Like Order #2, the state orders also provide for adjustment in the blend price for payments to cooperatives for market services. This amount is equal to 1, 2, and 5 cents per cwt., respectively, for bargaining, collecting, and operating cooperatives' member milk. Finally, a reserve fund is financed by deductions from the blend price.

The two State orders differ from all Federal orders in another important respect. Recall that under Federal orders, any interested party including milk handlers and consumers, as well as dairy farmers, can submit proposals for establishing or changing orders to the Secretary of Agriculture for consideration at public hearing. This situation does not exist in the two State orders. Instead, the New York Milk Control Law grants Producer Bargaining Associations, which are composed of dairy cooperatives, the exclusive authority for proposing and amending State orders. However, once amendments are proposed by cooperatives, milk handlers may submit counter proposals.

This provision has had two effects on State orders. First, it has served to unify producers in the Niagara Frontier and Rochester markets. This is true because essentially all of the producers in this region are members of cooperatives and the cooperatives are members of Producer Bargaining Associations. Second, compared to Federal orders, State order hearings in New York usually have less conflicting and complicated testimony at the public hearings. This is true because the cooperative members of the bargaining agencies usually iron out their differences and reach a compromise prior to the hearings. This is not to say that conflicts do not arise between cooperatives and proprietary firms at the hearings. There occasionally are strong conflicts between these two groups especially on amendments to expand orders into unregulated areas. On the other hand, Federal order proceedings frequently have lengthy testimony and differing opinions between producer cooperatives as well as between handlers and cooperatives at the hearing.

Although the Producer Bargaining Associations, in principle, have exclusive control over proposing changes in orders, they do, in practice, recognize the interests of other groups and have included order amendments proposed by these groups in their amendment petitions. Consequently, order issues as proposed by handlers are frequently included in referendums voted on by producers in bloc by their cooperative associations. Also, Producer Bargaining Associations have frequent informal communication with Dealer Bargaining Associations and the Commissioner.

Number of Dairy Farms and Volume of Milk
in New York Affected by Marketing Orders

The majority of New York producers (90% in 1984) ship milk to handlers regulated by the three Federal marketing orders (Table 1). Order #2 accounted by far for the greatest share of these farmers (78%), with Orders #1 and #36 comprising 12% and 1% of producer milk, respectively, in 1984. The remaining 10% of New York dairymen sold their milk to handlers regulated by the Niagara Frontier Order (7%) and the Rochester Order (3%).

As Table 1 indicates, the average December volume of milk produced by farmers in the state was 65,000 pounds. This figure varied by marketing order in the state. The highest average milk production per farm for December 1984 was in the Rochester Order (97,000 pounds). The lowest average December production per farm was in the Eastern Ohio-Western Pennsylvania Order (51,000 pounds). As should be expected, Order #2 had production per farm closest to the state average because the majority of producers ship their milk in this order.

Table 2 presents the number of producers and volume of milk shipped to the five marketing areas by county for December 1984.⁵ The geographic

⁵There is a diversity among dairymen within the various counties regarding which order they supply their milk to. In 1984, for example, there

Suppose that there are only two handlers, A and B, selling milk products in some defined marketing area. Handlers A and B receive the same amount of milk each month (100,000 pounds) but A uses more of it (80 percent) in Class I products than B, who only uses 40 percent of the milk in this class. Table 2 shows the class prices, sales, and payments for milk by each handler and the total market for this example. There are two pooling procedures used in Federal orders to calculate the uniform monthly price; both are illustrated below.

Table 2. Hypothetical Market and Example of Pooling Arrangements Under Federal Marketing Orders

Use	Price (\$/cwt)	Handler A		Handler B		Total Market	
		Sales (cwt)	Payment (\$)	Sales (cwt)	Payment (\$)	Sales (cwt)	Payment (\$)
Class I	14.50	800	11,600	400	5,800	1,200	17,400
Class II	12.60	200	2,520	600	7,560	800	10,080
Total		1,000	14,120	1,000	13,360	2,000	27,480
Average Price		14.12		13.36		13.74	

Under an individual handler pooling procedure, blend prices are determined for each handler rather than on a marketwide basis. The uniform price each handler must pay is based on two factors: the level of class prices and his utilization of milk between the classes. This price is equal to the weighted average of class prices. Weights are based on utilization. In this example, A must pay producers a minimum of \$14.12/cwt, which is equal to 80 percent of the Class I price (\$14.50) plus 20 percent of the Class II price (\$12.60). Handler B pays a lower price because he uses less of the milk in higher valued fluid products. In this case, B must pay producers a minimum price of \$13.36/cwt, which is calculated by taking 40 percent of the Class I price (i.e., his Class I utilization rate is 40 percent), plus 60 percent of the Class II price. It is clear that producers have strong incentives to sell to handlers that process a greater share of their milk into Class I products because these dealers must pay relatively higher uniform prices. It is also clear that handlers with low Class I utilization rates, e.g., Handler B, may actually have to pay more than the minimum blend price to obtain the necessary supplies he or she desires. Because of potential disparities in prices received by farmers and the potential for destructive trade practices that may result from such price disparities under this system, Federal orders generally use a pooling procedure based on marketwide rather than individual handler class utilization. Only three Federal orders--Fort Smith, Memphis, and Michigan Upper Peninsula--use individual handler pools. The rest use marketwide pools.

Under the marketwide pooling arrangement, blend prices are determined on a total market utilization basis and all producers receive the same blend price regardless of which handlers they sell to. The uniform price is again based on two factors: the level of class prices (as before) and the market utilization rate. In the above example, Class I and II market utilization is 60 and 40 percent, respectively. Thus, the blend price is \$13.74/cwt, which is equal to 60 percent of the Class I price (\$14.50) plus 40 percent of the Class II price (\$12.60). Although both handlers are required to pay producers \$13.74/cwt, they end up paying the same weighted average price as was determined before in the individual handler pool. This is accomplished through what is called a producer's settlement fund. For instance, in this example handler A pays producers the blend price (\$13.74), but since his average class utilization price is higher (\$14.12), he contributes the difference (38 cents) to the fund. Handler B also pays producers \$13.74, but since his average class utilization price is lower (\$13.36) he receives a refund of 38 cents from this fund. Consequently, under a marketwide pool, each handler is able to pay the same price to all producers regardless of how he uses the milk.

Adjustments in the Blend Price - All producers in a marketing order are not guaranteed the exact blend price calculated for each month. The actual price received by dairymen reflect several adjustments in the uniform price which are based on his location and the butterfat content of his milk. In general, each Federal order specifies geographic zones on the milk supply that are defined relative to the nearest major population center. Some orders base these zones on multiple major population centers. To reflect variations in transportation costs, producers delivering to plants in more distant zones receive lower prices than producers delivering to plants closer to metropolitan areas.

The price received by each farmer is further adjusted to reflect the butterfat content of his milk. The class prices and uniform price are based on milk with a 3.5 percent butterfat content. Producers with higher fat milk receive a positive differential, while farmers having lower fat milk receive a negative differential to their blend price based on a specific formula.³

³Prior to the butterfat differential system, milk was bought and sold strictly on the basis of volume which caused many abuses such as watering and skimming the milk. The butterfat system has been effective in eliminating these corrupt practices but many have argued for changing it to reflect protein or nonfat solids variations in milk as well. Proponents of multiple component pricing (MCP) of milk argue that butterfat and nonfat components are not produced in fixed proportions and results in inequitable payments to producers. They also make the case that consumers are demanding less fat and more protein in both fluid and manufacturing dairy products which has resulted in increases in the value of skim milk relative to butterfat value and the value of dried nonfat solids relative to butter. MCP is already operational under the state order in California and we may see them adopted in some Federal orders in the near future.

production area, in general, surrounds the marketing area for each order. For instance, the two State orders receive their milk from seven counties (each) in Western New York. The Eastern Ohio-Western Pennsylvania Federal order receives its New York supply of milk from producers in two southwestern counties bordering Pennsylvania. There are 23 counties in the eastern part of the state with producers supplying milk to the New England Federal order. Federal Order #2, the predominant order in New York, has 49 of the 54 counties in the state with dairymen shipping milk to handlers regulated by the order. Hence, it is clear that the proximity of counties to the marketing area of the order is a primary determinant of where the milk is shipped.

Since 1980, the number of New York farmers selling their milk to handlers regulated by marketing orders has decreased from 14,661 to 13,553, an 8% decline (Table 1). The New England and Rochester orders experienced the largest reduction in producers (13% decrease each for the five-year period). While the New York-New Jersey order stayed close to the state average decline (7%), the Niagara Frontier order's reduction in producers was smaller (5%). The Eastern Ohio-Western Pennsylvania order actually experienced a 13% increase, but remained as the smallest order in terms of New York producers affected by it. The composition of producers regarding Federal and State order sales remained almost constant in this five-year period with about 90% of milk production regulated by Federal orders and 10% regulated by State orders.

Although farm numbers declined in this period, total milk production increased by 4% (Table 1). This increase was due to a 12% increase in milk production per farm. Therefore, the trend toward fewer, but larger, farms has continued in the 1980's.

Similar to trends in number of producers, total and per farm milk production patterns has varied by marketing order. Although the two orders experiencing the largest decrease in producers (Orders #1 and #129) had the lowest growth in milk production (-3% and 2%, respectively) they also had the largest increase in production per farm (12% and 18%, respectively). It is also interesting to observe from Table 1 that Order #36, which was the only order to experience a growth in producers, had the largest increase (9%) in total production per farm.

Conclusion

This paper presented a basic review of milk marketing orders in the state of New York. Marketing orders have their roots in the 1930's, a time of unprecedented chaos for both the agricultural and general economy. During

were three counties that had producers shipping their milk to three different orders, 28 counties that had producers shipping their milk to two different orders, and 23 counties that had producers shipping their milk to only one order.

this period dairy markets across the country were in tremendous disorder with farmers facing highly unstable prices and virtually no bargaining control in marketing their milk.

From about 1880-1916 milk buyers dominated the price setting of milk with dairy farmers having virtually no control of prices. Several attempts to gain a degree of bargaining power over prices were successful by cooperatives from World War I to the Depression. However, most successes were short-lived because buyers could find alternative outlets for milk. Through a lengthy legislative process, the Federal and New York governments finally passed the Agricultural Marketing Agreement Act of 1937 and the New York Milk Control Law of 1937, respectively. These two pieces of legislation provide the legal basis for all Federal and State milk marketing orders in New York.

In New York about 98 out of every 100 dairymen sell their milk to handlers regulated by milk marketing orders. Although the state's farmers are affected by three Federal and two State marketing orders, the New York-New Jersey Federal order is by far the most important in terms of number of producers and volume of milk regulated under its authority. Currently this order covers over 38 counties in the state.

Two smaller State marketing orders operate in Western New York. These two orders, the Niagara Frontier and Rochester orders, are authorized by the New York Milk Control Law of 1933 and subsequent amendments. Both the State and Federal orders in New York were established in the late 1930's and have operated continuously since then. The major difference between the State and Federal orders is that under the two State orders farmers pay for the hauling cost of delivering milk to the plant and pay for administration costs of the orders.

The dairy industry in New York, as well as the rest of the nation, is an ever changing dynamic sector of our economy. The system of marketing orders have had to adjust to changes in the structure of dairy markets in the past and will face even farther-reaching challenges in the future. The success of orders in stabilizing the market and mitigating future problems will ultimately depend upon dairymen themselves since they have complete control over adoption, termination and changes in the orders. Therefore it is critical that farmers understand the nature and purposes of milk marketing orders and take an active role in shaping the direction of them to future structural changes in this sector of the economy.

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