Milk Price Petition: 608(c) 18 Update & Strategies

by Pete Hardin

In the August 2012 issue of this publication, we urged dairy producers to petition USDA, seeking an emergency hearing to raise milk prices under the powers granted to the USDA Secretary under section 608(c) 18 of the enabling legislation for federal milk marketing orders. The whistle has blown and the game has started. Here's what's been happening:

• USDA has received several dozen petitions calling for a 608(c) 18 hearing. What USDA does next ... is up to USDA. Technically, the rules require that USDA has 30 days in which to respond to petitions calling for a national federal milk order hearing. At this time, USDA's response is not known. The department may deny a hearing, grant a hearing, or ask for more general and specific details.

• Some mainline farm groups and dairy organizations are cynically negative. A "can't do" mindset prevails. Dairy Farmers of America personnel recently told an inquisitive Pennsylvania producer/member that they'd "never heard of" 608(c) 18. Pennsylvania's Farm Bureau advises that outdated language from 1937 has no place in the modern dairy industry.

• Regardless, some dairy groups are pushing the 608(c) 18 proposal. The advantage of this section of federal law is that it exists, requires no additional legislation, and can be kicked into gear promptly, if the Secretary of Agriculture is so motivated. Elements for such "motivation" might include the fact that 2012 is a presidential election year (and Wisconsin is a "swing state") ... and that many U.S. dairy farmers are squeezed into desperation by milk prices and production costs.

At least in the past 40 years, USDA has never convened a hearing under 608 (c) 18 powers. In all likelihood, USDA has never been so petitioned. Even if 608(c) 18 has gathered dust since the late 1930s, it's the law. That provision has been "rolled over" by every subsequent federal farm law. Rather than minimize that section of law as antiquated perhaps it's better to marvel at the "wisdom of the founding fathers" for creating such a tool.

Reasonable requests to raise farm milk prices?

We present several ideas that would either boost the revenue or net revenue of dairy producers. We urge concerned persons to convey these ideas to USDA's Agricultural Marketing Service, if that branch requests specifics for a 608(c) 18 hearing.

1) Shift all federal milk orders to a farm-point pricing system. The point of transfer of milk is at the farm, at the bulk tank or the over-the-road milk trailer. Currently, dairy producers pay milk hauling costs that range from "free" to about $2.00 per cwt.

Logic:

Shifting to a farm-point pricing program would erase one of the great marketing inequities – the fact that the producer pays the haul from the farm. Shifting to a farm-point pricing program would remove hauling costs, and transfer those costs to the procurer of milk, whether that procurer was a cooperative or private milk plant. "Independent" producers would see their milk check stubs unadorned with hauling costs. If cooperatives failed to recover marketing costs from the buyer of the raw milk, those co-op members would see obvious losses.

Importantly, shifting to a milk pricing system in which the buyers were responsible for farm-to-plant hauling costs would relieve dairy farmers from what we fear will be major, FUTURE run-ups in farm-to-plant milk hauling costs. Imagine the heights to which diesel fuel costs will climb, if (or more likely, *when*) a Middle East War breaks out.

Removing milk hauling costs would raise producers' net incomes, by eliminating that cost from producers' milk check deductions.

From a practical sense, shifting to farm-point pricing would force the dairy cooperative sector from one of its incompetent practices: undervaluing raw milk prices to the farmer by failing to recover all costs of raw milk marketing.

2) Shift all farm milk sold to yogurt plants to Class I, from yogurt's current Class II utilization. Create compensatory payments into federal order pools for nonfat dry milk added to yogurt production. Yogurt sales are climbing, while fluid milk sales are in serious decline. At present, using the examples of a $4.00/gallon container of 2% milk, and a (modest) $.50 price per six-ounce cup of plain yogurt at the supermarket dairy case, the following estimated gross dollar resources are generated:

2% milk: 11.4 gallons x $4.00/gallon = $45.60. Now let's value the remaining 2 lbs. of cream. Cream value estimated at $1.60/lb. Grade A butter price X "multiple" of 1.35 = $4.32. Total resources gained, in this example, from 100 lbs. of milk processed into 2% beverage and residual cream: $50.92/cwt.

(Note: The "multiple" is a standard industry factor by which spot sales of cream are valued. Multiples vary, based upon supply/demand conditions.)

Plain yogurt (1%): Assume 50 cents per cup of plain yogurt at 1% milkfat. After removing 3 lbs. of cream (80% fat), there would remain 96.4 lbs. of milk from which to make yogurt. Those 96.4 lbs. of milk would produce approximately 240 six-ounce cups of plain yogurt. At (a very modest) $.50 per cup, that product yields a retail value of $120. Additionally, the three pounds of cream removed from that hundredweight of milk would recover an additional $6.48 under the Grade A butter price and cream "multiple" parameters used in the above paragraph. Repeat: the price estimate of $.50 per cup is very modest.

Thus, from an economic standpoint, yogurt certainly yields adequate resources to comfortably fit into a higher-priced utilization, from Class II to Class III.

(Note: True "Greek Style" yogurt yields about one-third of volume raw milk volume: for example, roughly 33 lbs. per hundredweight of milk. Regular yogurt yields 100 lbs. of product from 100 lbs. of milk.)

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Further issue in elevating regulated farm milk processed into yogurt: compensatory payments. Under current rules for Class I milk, when Grade A nonfat dry milk (a Class IV product) is rehydrated into Class I skim for fluid milk, the federal milk order assesses an "upcharge" – commonly known as a "compensatory payment" – against the processor. That compensatory payment is equal, on a per hundredweight basis, to the difference between Class I skim milk and Class IV skim milk.

To ensure pricing equity, it would be necessary to impose a compensatory payment upon nonfat dry milk used in production of yogurt, if yogurt milk were elevated to Class I status. Grade A nonfat dry milk compensatory payments could be pooled nationally, within the federal milk order system.

Better yet: credit compensatory payments back to the regional milk order where the milk was produced. That'd be incentive for California to join the federal milk order system.

Additional regulatory oversight of yogurt plants would be necessary, if yogurt were to be made a Class I product. Such additional regulatory presence could also determine penalties against firms making yogurt that were using unapproved dairy ingredients.

A severe penalty could be imposed – on a per-pound basis – against volumes of unapproved dairy proteins used in the manufacture of yogurt. Such a provision is necessary to compensate for the long-running failure by the federal Food and Drug Administration to enforce yogurt ingredients laws.