

WASHINGTON POLICY OUTLOOK

October 4, 2011
Shell Beach, CA

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THE MORE THINGS CHANGE. . .

- The Usual Caveats and Thanks
- Somatic Cell Count Fiasco
- Animal Drug Residues Sampling
- Electronic Reporting of Dairy Product Prices
- Farm Bill/Federal Milk Order Update
- Food Safety and Modernization Act
- A Word on Labeling and the First Amendment

SCC and Bacterial Count

- The problem – E.U. “requires” maximum 400,000 SCC and 100,000 bacterial
- U.S. presently regulates for maximum 750,000 SCC and 100,000 bacterial for Grade A only
- Industry sought PMO solution – NCIMS nixes
- AMS proposes a solution – Appendix A
- Will there be equitable treatment???

Animal Drug Residues Sampling

- Late 2010 FDA/CVM announces testing
- Is there correlation between tissue residue and milk supply?
- Program postponed due to industry concerns
- Industry sought consistent sample location, double-blind protocol, Proper testing methodology, and Communications Plan
- Now comes the E.U. – See Appendix B

DAIRY PRODUCT PRICE REPORTING

- Congress in 2010 mandated that USDA switch over to mandatory electronic reporting of dairy products.
- AMS in process of implementation through Notice and Comment Rulemaking
- Changes – electronic submission (some already do this), AMS rather than NASS, report dates
- Test runs and implementation

A FLUID LEGISLATIVE SITUATION

- Old dairy line – “Money Moves Milk”, well it clearly now moves everything in D.C.
- Latest Dairy Debate is thus dominated by \$\$\$
- NMPF plan, Cong. Peterson, Sen. Gillibrand proposals – common subjects – (A) Margin Insurance; (B) Market Stabilization; (C) FMMO Reform (yet again); and (D) Termination of Dairy Price Support programs

OVER TAKEN BY RECENT EVENTS

- NMPF Announces changes to FFTF – Appendix C.
- Dairy Security Act of 2011 – Appendix D (Summary)
- Differs from Peterson Discussion Draft
- Dairy Market Stabilization Program (“DMSP”) would be voluntary
- But choosing not to participate in DMSP means that dairy farmer CANNOT participate in Margin Insurance Program

MORE ON RECENT EVENTS

- Margin insurance increased to 80% from earlier proposed 75%
- Producers can also purchase insurance for farm growth
- DMSP activation limited if it would impinge on export opportunities
- FMMO Reform would be formal rulemaking (specific results not dictated by Congress)

MONEY MOVES LEGISLATION?

- All important CBO Scoring says that Dairy Security Act would save \$167 million over 5 years and \$131 million over ten years
- New DSA appears to save \$52 million more than earlier version
- Opponents to Peterson earlier draft focused on mandatory “supply management”, negative impacts on export opportunities, higher fluid milk minimum prices, limited 10 year savings.

MORE ON DAIRY SECURITY ACT OF 2011

- It appears that unlike Discussion Draft, DSA provides that 100% of money collected from dairy farmers is made available to the dairy industry board.
- This appears to eliminate the “tax” argument raised by opponents.

PREDICTIONS?

- Some farmer opposition likely will remain from those who want greater assurance of farm sustainable milk prices (e.g. DPAC).
- Can DMSP succeed with voluntary participation – i.e. does lack of government margin insurance mean that farmers without it will reduce production when needed?
- Other than DPAC will producer community unite?

DAIRY SECURITY ACT OF 2011 DAIRY PRODUCER MARGIN PROTECTION PROGRAM

- Uses the national All Milk Price paid to farmers and a new, national typical whole-farm feed cost per cwt of milk produced to calculate a producer's actual margin
- Every farm will have a milk production base using the highest annual production looking back 3 years from implementation.

DAIRY SECURITY ACT OF 2011 DAIRY PRODUCER MARGIN PROTECTION PROGRAM

- The milk base will be fixed for the 5-year duration of the basic margin production program
- Producers will have option through supplemental margin protection to increase coverage amount.

DAIRY SECURITY ACT OF 2011 DAIRY PRODUCER MARGIN PROTECTION PROGRAM

- Base insurance program fully funded by government
 - Voluntary – must sign up in first year
 - Insures against losses if actual margin is less than \$4.00 per cwt
 - Limited to 80% of each producer's base production

DAIRY SECURITY ACT OF 2011 DAIRY MARKET STABILIZATION PROGRAM

- Uses the same actual margin calculation as that of the Dairy Producer Margin Protection Program but different calculation for base marketing - Either the same month last year or rolling average of the three most recent months-producer chooses

DAIRY SECURITY ACT OF 2011 DAIRY MARKET STABILIZATION PROGRAM

- Program operates by setting a limit on the volume of milk a producer may be paid for each month
- For milk marketed above this limit, handler sends money to USDA instead of to the dairy producer

DAIRY SECURITY ACT OF 2011 DAIRY MARKET STABILIZATION PROGRAM

- USDA must set up a DMSP Board (DMSPB)
 - *“Shall be representative of the United States dairy producer community, taking into account geographical diversity, cooperative membership and the volumes of milk produced in various States and regions”*

DAIRY SECURITY ACT OF 2011 FEDERAL ORDER PROPOSED CHANGES

- Unlike Discussion Draft which would have directly amended the Federal Register with over 60 pages of FMMO changes -
- Use formal rulemaking to amend FMMOs to terminate use of end-product pricing for Class III (only) and replace end-product pricing with competitive price series

DAIRY SECURITY ACT OF 2011 FEDERAL ORDER PROPOSED CHANGES

- Make allowances and yield factors for NFDM and butter are retained.
- Class III pricing changes made without consideration of existing AMAA – that appears to mean without regard to supply and demand factors and without considering dairy farmer cost of production under 608c(18).
- I cannot overstate significance of non-use of 608c(18)!

DAIRY SECURITY ACT OF 2011 FEDERAL ORDER PROPOSED CHANGES

- AMS must also promptly seek comments on inter- and intra-market transportation credits to address balancing needs.
- Within 1 year of enactment USDA must conduct formal rulemaking on proposals and comments received regarding transportation credits and balancing.

FOOD SAFETY AND MODERNIZATION ACT

- FDA continues to move towards full implementation.
- Expect real and costly rules for food traceability in order to comply with Recall requirements.
- NMPF and IDFA are working together to minimize some costly impacts where existing protections are adequate.

ANNUAL NON-DAIRY UPDATE

- Last year I mentioned the FDA salmon labeling requirements, the IDFA milk label case in Ohio and how they might relate to future issues regarding “cloned” cows.
- This year, FDA regulation of tobacco labeling is subject to major First Amendment Claims.
- My legal opinion is that tobacco companies should prevail, but what happens if they lose?

WHY CARE ABOUT TOBACCO?



WARNING: Cigarettes
cause fatal lung disease.

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