

Response to USDA's Released Proposed Revision
on the
New Federal Order Reform

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To Whom It May Concern:

My name is Cyrus S. Cochran, and I am a dairy farmer from Pennsylvania. I presented testimony on May 9, 2000, at the USDA's hearing last spring in Alexandria, VA, concerning proposals to adjust minimum Class III and IV pricing formulas. I am taking the opportunity to comment on the Tentative Decision on Proposed Amendments that I received along with the ballot for the producer referendum.

First, as a general opening remark, the informational document, included with the ballot, was not mailed out in time by USDA for independently voting producers, such as myself, to make an informed decision on how to vote. This was both irresponsible and inconsiderate of USDA, to put it mildly. Further complicating this issue are rumors of some eligible producers' receiving the ballot AFTER the deadline for the referendum had passed, while other producers qualified to vote reportedly never did receive a ballot.

Secondly, for those who by some miracle received the ballot in time to vote, the Tentative Decision On Proposed Amendments is confusing both in format and content for most producers to properly assimilate and evaluate. The constant reference to various testimonies makes it very difficult to comprehend what USDA's final conclusion on a given issue is. References to testimonies should have been kept separate so that a degree in law or literature was not necessary to determine what USDA had concluded. Clarity was gravely lacking here, and the lack, thereof, only further excluded producers from properly participating in the

referendum process.

My testimony as an independent producer on May 9, 2000, was confined to presenting evidence that USDA did, in fact, selectively exclude the provisions outlined in Section 608(c)18 of the 7 U.S.C. when the Revised Federal Order Reform was implemented in January 2000. After having read the Tentative Decision on Proposed Amendments, I have concluded that USDA has decided to persist with its flagrant violation of established law.

In the Tentative Decision, on page 5, under "Findings and Conclusions," item "1. Role of producer costs of production," USDA spins 7 U.S.C.

Section 608(c)18 to use it as a rationalization for both the existence of and the continuance of processor make allowances. USDA's use of terminology further convolutes the intent of 608(c)18. USDA makes numerous references to a "cost of production" when, in fact, 608(c)18 is quite specific in defining that ONLY a "CASH Cost of Production" be included in minimum pricing formulas. USDA's persistence in using the much vaguer "Cost of Production" term leads me to believe that the agency did this intentionally in an attempt to make 7 U.S.C. Section 608 (c) 18 appear ludicrous.

Additionally in this section, "Findings and Conclusions," USDA attempts to lay the blame for the lack of a cohesive cash cost of production plan at the doorstep of dairy producers themselves. As I testified on May 9, 2000, and, as is clearly laid out in the Agricultural Marketing Agreement Act of 1937, 7 U.S.C. Section 608(c)18, it is the responsibility of the Secretary of Agriculture to see that cash costs are calculated and incorporated into any federal minimum milk pricing formula.

In this portion of the Tentative Decision, USDA successfully gives the reader the impression that individual farmers and the organizations representing them testified in favor of a theory that is both flawed and completely inconceivable in application. As if to add insult to injury, USDA closes this section on the subject by concluding that it is questionable whether raw milk has any value AT ALL until it has been "... AT LEAST..." pasteurized. As a dairy producer, I think an appropriate and refuting question here would be to ask if any processing or bottling plants have value unless raw milk is provided to them.

It is ironic that the issue which could have potentially positively affected producer pay price the most was summarily and cursorily dismissed by USDA in such a general and all-inclusive fashion. However, USDA brings Section 608(c)18 up again, on page 18, in the Tentative Decision under "General Findings," item "b." As was the case earlier in the Tentative Decision, USDA's conclusion here is in contradiction to the intent of Section 608(c)18. Incredibly, USDA's statement here that proposed changes to minimum pricing encompass feed costs and other such costs associated with producing milk comes at a time when producers in the Federal Order System just recently received advance milk checks of \$8.57/cwt. As can be documented by statistics, an advance of this sum barely covers feed costs per cwt. on most farms, let alone taking into consideration "...OTHER..." cash costs associated with producing milk.

In conclusion, it is obvious to me that USDA continues to flagrantly violate 7 U.S.C. Section 608 (c) 18 and, in doing so, perpetuates a Federal Milk Marketing Order structure that benefits processors to the detriment of both the dairy producer AND the consumer. It is my hope that a group or organization will take some form of legal action against USDA for the agency's blatant violation of law.

submitted by

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