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A DETAILED SUMMARY OF
THE DAIRY PRODUCTION STABILIZATION ACT
OF 1983
(a.k.a. The Compromise Bill)

by

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Preface

Andrew M. Novakovic is an Assistant Professor in the Department of Agricultural Economics at Cornell University. This summary is his best interpretation of the Dairy Production and Stabilization Act of 1983 as it appeared in the Congressional Record. It is in no way an official interpretation nor is it a legal opinion. Official interpretations, rules and regulations can be expected from the U.S. Department of Agriculture by early January, 1984.

Introduction

The Dairy Production Stabilization Act of 1983 (DPSA) became law on November 29. The major provisions of the DPSA call for an immediate cut in the support price of 50¢/cwt., the elimination of the second, refundable assessment, the retention of a nonrefundable 50¢/cwt. assessment, the implementation of a paid diversion program, and the authorization for a national milk promotion and research order financed by a maximum 15¢/cwt. levy on all milk producers.

This note summarizes the provisions of the DPSA in as much detail as we now have. Although the law is fairly detailed and specific, it will still be necessary for the USDA to issue additional rules and regulations explaining how they intend to administer the DPSA and how they interpret those provisions which give the Secretary administrative latitude or which are more vague. Apparently it is USDA's intention to issue these rules sometime during December. They will be publicized, and the paid diversion rules will be available from county ASCS offices, which are responsible for administrating that part of the DPSA.

The 50¢/cwt. Support Price Cut

As of <u>December 1, 1983</u>, the support price is <u>$12.60</u> for 3.67% bf milk. Purchase prices for cheese, butter, and nonfat dry milk will be reduced accordingly (probably 5¢/lb. less for cheese and butter and 3¢/lb. for nonfat dry milk).

The earliest that this price can be changed is <u>April 1, 1985</u>. On that date, USDA <u>may decrease</u> the support price to <u>$12.10</u> (3.67% bf) <u>if and only if</u>

they estimate net removals for the period April 1, 1985 to March 30, 1986 will exceed 6 billion pounds on a milk equivalent, fat-solids basis (M.E.).

On July 1, 1985, USDA may increase or decrease the support price (or keep it the same). If and only if they estimate that net removals for the period July 1, 1985 to June 30, 1986 will exceed 5 billion pounds, M.E., USDA may reduce the support price by 50¢/cwt. If USDA did not reduce it on April 1, a July 1 reduction would mean a support price of $12.10. If both reductions are taken, the support price could be $11.60. On the other hand, if and only if USDA estimates that net removals for the next 12 months will be 5 billion pounds, M.E., or less, they may increase the support price at least 50¢/cwt.

The 50¢ Deduction

Beginning December 1, 1983, and until March 31, 1985, USDA will collect 50¢/cwt. of milk sold from all producers.

The old assessment program still covers milk sold up until December 1; so December paychecks will still reflect the $1 assessment. And, eligible producers can still collect a refund on the second 50¢ assessment for milk sold between September 1, 1983 and November 30, 1983.

If any legal action is taken that prevents the USDA from collecting the new 50¢ assessment, the paid diversion program will be immediately suspended.

The Paid Diversion

The paid diversion program will begin January 1, 1984 and will end March 31, 1985. In other words, it affects milk sold between those dates.

Producers will have until February 1, 1984 to sign up at their local ASCS office.

In general, signing up means that a producer enters a contract with the Secretary of Agriculture in which he/she agrees to sell a certain quantity of milk during the 15-month program. This quantity must be at least 5% less than his/her base, and payment will be made on no more than 30% of his/her base. The producer chooses a specific level within this range. In return for agreeing to sell this much milk, the producer will receive a payment equal to $10 per cwt. times the difference between his/her base and the specific quantity he/she agreed to sell.

Also, when signing up, each producer must file a plan that describes 1) how he/she intends to achieve the specified level of sales, 2) the approximate number of cattle that will be culled during each month of the program, 3) how many pounds of milk he/she marketed each month in 1983, 4) the average number of cows he/she milked in 1983 by quarter, and 5) how many dairy cattle were sold, leased, or otherwise transferred since November 8, 1983.

Now, there are quite a few additional specific provisions in the law and more detail can be expected after USDA issues the appropriate rules and regulations. The additional legal provisions are as follows.

The Base

Producers may choose one of two bases, calculated from either a producer's sales in 1982 or the average of sales during 1981 and 1982. As will be discussed later, it will be necessary to calculate a base for each quarter. A producer's base for each quarter equals either 1) his sales during the same quarter in 1982 or 2) the average of his sales during the same quarters in 1981 and 1982. Because the program lasts 15 months and has two January to March periods, the first quarter base is used twice to calculate the total, 15-month base.

If a producer has no milk sales prior to December 31, 1982, he has a zero base.

However, USDA may increase a producer's base if sales during all or part of the base period are abnormally low due to a natural disaster or some other factor beyond the control of the producer. (How this will be handled specifically will not be known until USDA publishes its rules.)

A producer's base can be transferred to another producer only if the entire "production facility" and the entire herd are transferred 1) to someone because the original producer died, 2) to someone as a gift of the original producer, or 3) to a member of the original producer's family (where a family member is a spouse, lineal descendant or ancestor, or the spouse of any such lineal descendant).

Adjustments to Contracts

Producers must specify how much they plan to sell during each quarter and during the entire 15-month period of the program relative to the corresponding quarterly or total base.

USDA can adjust the initial contracts if 1) the sign-up represents a bigger reduction than is desired or 2) the quarterly plans suggest that very heavy culling in one quarter could result in "substantial hardship" to livestock and poultry producers.

In the first case, where the sign-up is judged too great, the USDA can reduce each or any individual's contract in any fashion they see fit, except they cannot adjust contracts on the basis of geographic region. For example, if the initial sign-up implies a 20 billion pound reduction in sales but USDA only wants to reduce sales 10 billion pounds, it could reduce everybody's contract by 50% or it could use other criteria that would imply something other than an across-the-board, pro-rata change. As an example of the latter, a producer who states that he will eliminate his entire herd may receive a payment corresponding the maximum 30% reduction. Even if the total sign-up is too great, this producer's contract may not be reduced. (This is how I interpret the Act; there are some who think that reductions may not be so arbitrary.)

In the second case, the USDA cannot adjust the specified sales figure for the total period, but it may adjust the quarterly sales targets, i.e., increase the target in one quarter and decrease it in another, such that the total is the same. The reason for doing this appears to be to avoid very heavy culling in the first or second quarter of 1984 that could seriously depress beef and hog prices.

(It appears that all such adjustments to contracts will be made by March 1, 1984. Producers should not assume that what they originally sign up for will end up in the final contract; however, if their contract is adjusted they will probably have an opportunity to accept or reject the adjusted contract.)

Payments

Producers will receive \$10/cwt. on the difference between their actual sales and their base sales if their actual sales equal the sales level specified in their contract plus or minus 3% of the base period sales. For example, if a producer's contract specifies a 20% reduction relative to base sales, the producer can't collect for more than a 23% reduction and collects nothing if he doesn't achieve at least a 17% reduction. Moreover, a 30% reduction is always the maximum upon which a payment can be made, and a 5% reduction is the minimum required to qualify for any payment at all. Producers who violate any provision of the paid diversion program will also forfeit any payment.

Payments can be claimed quarterly. The criteria used to determine whether a producer qualifies for a payment have not been announced yet, but it appears that if, for example, a producer contracted for a 20% reduction in total, he would have to be at least 17% below his quarterly base to receive a payment in that quarter. If a producer sells more milk than specified in any particular quarter but sells the right total for the entire 15 months, he may forfeit a quarterly payment but will receive payment in full for the entire period. Any missed quarterly payments or other discrepancies will be settled at the end of the program.

If the producer fails to fulfill the contract, he must return any money already received plus interest and could be liable to a fine equal to the support price times the amount of milk by which he missed the minimum contract goal.

Assigning (Transferring) a Contract

A producer can transfer his contract to someone else only if 1) that other person is eligible to receive the original producer's base (see base transfer above), 2) the receiving party agrees in writing to honor the original contract, and 3) a copy of this written agreement is submitted to the USDA (probably the local ASCS office) before the transfer is made. In the case of the death of a contract holder, the estate can assign (transfer) the contract.

Miscellaneous

Any producer under contract who culls or has culled dairy cattle after November 8, 1983 must sell or have sold those cattle for slaughter or must sell, lease, or otherwise transfer them to another producer who is (or will be) under contract, with a possible exception for sales of purebred, registered cattle sold for breeding purposes. (There may be some exceptions for culls made between November 8 and November 29 or January 1, but it would be wise for producers to assume that culling other than in the prescribed fashion may jeopardize their qualification for the program.)

Any production capacity of a "production facility" that is freed up because its owner is under contract cannot be used by anyone else for producing milk.

Producers under contract must certify that they are not offsetting a reduction in one "production facility" by increasing production in another facility.

If there is a marked deviation in the composition of a producer's milk (e.g., a producer reduces volume by draining off skim milk, so that the butterfat test goes up), then his diversion payment can be "adjusted."

The National Dairy Promotion and Research Order

Thirty days after receiving a proposal(s) from a certified organization(s), the Secretary must publish a proposed Dairy Promotion and Research Order. The deadline for proposals set by the Secretary is January 6. After due notice and comments (and possible revisions), the Secretary shall issue an order, which must become effective no later than 90 days after the proposal is published. Current USDA plans set May 1 as the target date on which to have the order take effect. The order may be amended by the Secretary from "time to time."

The purposes of the Order include promotion and advertisement of any or all dairy products, nutritional education, and related research.

A National Dairy Promotion and Research Board consisting of at least 36 members representing all geographic areas will be appointed by the Secretary. The Board is charged with executing the purposes of the Order, but all their plans are subject to the approval of the Secretary.

The Order will be financed by a maximum 15¢/cwt. deduction on all milk marketed by producers. Producers participating in active, ongoing, qualified State or regional generic promotion or nutritional education programs will get a credit toward the 15¢ deduction equal to the amount they are currently paying towards these programs (8.5¢ in New York). This credit can be as large as 15¢ until June 1, after which the maximum credit is 10¢.

Between August 1, 1985 and September 30, 1985, the Secretary must conduct a referendum among farmers, asking them if they wish to continue the Order. If a continued Order is not approved by a majority of those farmers who voted, then the Order must be terminated within six months. Bloc voting by cooperatives is permitted.

After September 30, 1985, the Secretary can terminate an Order or parts of it if he determines that it or they obstruct or no longer effectuate the declared promotion policy.

Further referenda can be conducted at any time and must be held if 10% of the producers request one.

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If any legal action is taken that prevents the USDA from collecting the new 50¢ assessment, the paid diversion program will be immediately suspended.

The Paid Diversion

The paid diversion program must begin no later than January 1, 1984 (and probably won't begin any earlier) and will end March 31, 1985. In other words, it affects milk sold between those dates.

Producers will have until February 1, 1984 to sign up at their local ASCS office.

In general, signing up means that a producer enters a contract with the Secretary of Agriculture in which he/she agrees to sell a certain quantity of milk during the 15-month program. This quantity must be at least 5% less than his/her base, and payment will be made on no more than 30% of his/her base. The producer chooses a specific level within this range. In return for agreeing to sell this much milk, the producer will receive a payment equal to $10 per cwt. times the difference between his/her base and the specific quantity he/she agreed to sell.

Also, when signing up, each producer must file a plan that describes 1) how he/she intends to achieve the specified level of sales, 2) the amount of a reduction in sales that will be achieved by culling and 3) the approximate number of cattle that will be culled during each month of the program.

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A producer's base can be transferred to another producer only if the entire "production facility" and the entire herd are transferred 1) to someone because the original producer died, 2) to someone as a gift of the original producer, or 3) to a member of the original producer's family (where a family member is a spouse, lineal descendant or ancestor, or the spouse of any such lineal descendant). (Author's note: Who exactly is eligible to receive a base transfer is less clear to me than this statement may imply. This is how I interpret it, but USDA may interpret it to mean that only family members can receive a base.)

Adjustments to Contracts

Producers must specify how much they plan to sell during each quarter and during the entire 15-month period of the program relative to the corresponding quarterly or total base.

USDA can adjust the initial contracts if 1) the sign-up represents a bigger reduction than is desired or 2) the quarterly plans suggest that very heavy culling in one quarter could result in "substantial hardship" to livestock and poultry producers.

In the first case, where the sign-up is judged too great, the USDA can reduce each or any individual's contract in any fashion they see fit, except they cannot adjust contracts on the basis of geographic region. For example, if the initial sign-up implies a 20 billion pound reduction in sales but USDA only wants to reduce sales 10 billion pounds, it could reduce everybody's contract by 50% or it could use other criteria that would imply something other than an across-the-board, pro-rata change. As an example of the latter, indications are that any producer who states that he will eliminate his entire herd will receive a payment corresponding the maximum 30% reduction. If the total sign-up is too great, this producer's contract will (probably) not be reduced.

In the second case, the USDA cannot adjust the specified sales figure for the total period, but it may adjust the quarterly sales targets, i.e., increase the target in one quarter and decrease it in another, such that the total is the same. The reason for doing this appears to be to avoid very heavy culling in the first or second quarter of 1984 that could seriously depress beef and hog prices.

(It appears that all such adjustments to contracts will be made by March 1, 1984 or as soon thereafter as is possible. There probably will be adjustments, so producers should not assume that what they originally sign up for will end up in the final contract.)

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Producers will receive $10/cwt. on the difference between their actual sales and their base sales if their actual sales equal the sales level specified in their contract plus or minus 3% of the base period sales. For example, if a producer's contract specifies a 20% reduction relative to base sales, the producer can't collect for more than a 23% reduction and collects nothing if he doesn't achieve at least a 17% reduction. Moreover, a 30% reduction is always the maximum upon which a payment can be made, and a 5% reduction is the minimum required to qualify for any payment at all. Producers who violate any provision of the paid diversion program will also forfeit any payment.

The focus of the contract is to achieve the specified sales for the total 15-month period; however, producers will be asked to state a specific percentage reduction from quarterly base sales for each quarter of the program. This percentage reduction can be different for each quarter of the program. Producers may receive quarterly payments if they can show that their quarterly sales were within the quarterly targets specified in the contract. If a producer sells more milk than specified in any particular quarter but sells the right total for the entire 15 months, he may forfeit a quarterly payment but will receive payment in full for the entire period. Any missed quarterly payments or other discrepancies will be settled at the end of the program.

If the producer fails to fulfill the contract, he must return any money already received plus interest and (it appears) would be liable to a fine equal to the support price times the amount of milk by which he missed the minimum contract goal.

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Any producer under contract who culls or has culled dairy cattle after November 8, 1983 must sell or have sold those cattle for slaughter or must sell, lease, or otherwise transfer them to another producer who is under contract, with a possible exception for sales of purebred, registered cattle sold for breeding purposes (and with the possible exceptions for culls made between November 8 and November 29).

Any production capacity of a "production facility" that is freed up because its owner is under contract cannot be used by anyone else for producing milk.

Producers under contract must certify that they are not offsetting a reduction in one "production facility" by increasing production in another facility.

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The purposes of the Order include promotion and advertisement of any or all dairy products, nutritional education, and related research.

A National Dairy Promotion and Research Board consisting of at least 36 members representing all geographic areas will be appointed by the Secretary. The Board is charged with executing the purposes of the Order, but all their plans are subject to the approval of the Secretary.

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Between October 1, 1985 and November 30, 1985, the Secretary must conduct a referendum among farmers, asking them if they wish to continue the Order. If a continued Order is not approved by a majority of those farmers who voted, then the Order must be terminated within six months. Bloc voting by cooperatives is permitted.

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