

Docket: 23-J-0067
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
POST-HEARING BRIEF OF ASSOCIATED MILK PRODUCERS INC.
April 1, 2024

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This Post-Hearing Brief is being submitted on behalf of Associated Milk Producers Inc. (AMPI). The co-op is headquartered in New Ulm, Minn., and owned by about 850 dairy farm families from Wisconsin, Minnesota, Iowa, Nebraska, South Dakota and North Dakota. We are the largest farmer-owned cheese cooperative in the U.S. Our cheese, butter and powdered dairy products are produced at seven manufacturing plants located throughout the region and then marketed to foodservice, retail and food ingredient customers.

AMPI is a member of industry trade associations, including the National Milk Producers Federation (NMPF), International Dairy Foods Association (IDFA) and Wisconsin Cheese Makers Association (WCMA). These organizations proposed changes in the Federal Order Make Allowances, as outlined in hearing proposals 7, 8 and 9.

Make Allowances Updates Included in Proposals 8 & 9 are Justified

AMPI supports adoption of Proposals 8 & 9, submitted by WCMA and IDFA, which would move current make allowances from the current outdated 2007 levels to 2022 study levels. AMPI also supports more rapid adoption of the make allowance changes than the 4-year transition included in the IDFA and WCMA proposals. Current market and political conditions support such adoption.

NMPF Proposal 7 fails to update make allowances to close to 2022 levels.

The hearing record provides no support whatsoever for NMPF's position that the dairy industry should postpone implementation of adequate updated make allowances in the mere hope that legislation is enacted and very promptly implemented... NMPF can only hold out the possibility of a new round of hearings to consider the possibility of further increases if legislation is enacted providing USDA the authority to conduct mandatory, audited cost of manufacture surveys. This possibility is far too uncertain and speculative to be given credence.

IDFA Exhibit 42, IDFA Testimony Regarding Make Allowances Proposals 7-9, p. 25.

In AMPI's hearing testimony, AMPI Witness Steve Schlangen, a dairy farmer from Albany, Minn., noted that:

According to USDA, the intended purpose of Federal Orders is "serve to maintain stable marketing relationships for all handlers and producers supplying marketing areas, thus facilitating the complex process of marketing fresh milk."

The first step of fulfilling this mission is determining the minimum milk prices for the four classes of milk utilization. In other words, federal orders determine the minimum values for all milk pooled under a federal order.

To accurately determine these milk values, the system must reflect current manufacturing costs for milk and require regular updates to reflect both changes in costs and efficiencies. Today, the milk price regulations are outdated and increasingly irrelevant. Void of any updates since 2008, the current manufacturing milk calculations do not reflect today's costs. Simply put, it has become a system built on bad math. This is detrimental to dairy manufacturers and farmers alike, disregarding the basic purpose of the system: providing the stable marketing relationships as described on the FMMO website.

As a dairy farmer and owner of eight dairy manufacturing facilities through AMPI, I've witnessed the repercussions of outdated make allowances. When underestimating processing costs used to determine federal order milk component values, inaccurate price signals are sent to the marketplace and may lead to the misallocation of capital and resources.

Make allowances are important as they drive all minimum milk prices. The impact of these overvalued minimum prices is drastic. Milk market premiums have been replaced with significant price reblands below regulated minimum prices across much of the country. Most U.S. cooperatives have instilled production limits, as inadequate manufacturing capacity is not meeting many dairy farmers' desire to grow their businesses and be cost-competitive.

Source: IDFA Exhibit 25. Testimony of Steve Schlangen, AMPI in support of proposals 8 & 9: IDFA and WCMA proposal, pp. 2-3.

AMPI was one of many dairy cooperatives that participated in the updated cost survey completed by Dr. Mark Stephenson. In fact, the Stephenson study included the greatest product volumes of any of his previous studies. Fifteen firms, including eight cooperatives, submitted data from 45 different plants for the 2023 Stephenson survey. Survey participation ranged from 50% to 90% of the production volume of the four surveyed products used for NDPSR pricing.

This survey covered the largest amount of product of any of the Stephenson surveys, adding credibility to the survey results.

USDA-NASS and Stephenson Cost Survey Dairy Product Volumes

USDA NDPSR Cost Survey Products	USDA-NASS 2022 Annual Production	2023 Stephenson Cost Survey			Survey Production Share of USDA NASS Production
		Participating Plants	Average Annual Production	Total Survey Annual Production	
Cheddar Cheese	3,963,741,000	18	122,404,426	2,203,279,668	55.6%
Whey (Human)	885,929,000	9	49,986,287	449,876,583	50.8%
Nonfat Dry Milk	1,968,364,000	15	119,615,524	1,794,232,860	91.2%
Butter	2,058,737,000	13	126,906,009	1,649,778,117	80.1%

Data Sources: Dairy Products 2022 Summary April 2023. USDA NASS ISSN: 1057-784X PP11,23,29. Cost of Processing in Cheese, Whey, Butter and Nonfat Dry Milk Plants, Mark Stephenson, Ph.D., June 2023

Source: *USDA Hearing Exhibit. 215. DFA Testimony Regarding the Allowances Proposals 7-9, p 21.*

Dr. Stephenson’s survey determined the following 2022 costs of manufacture for the four NDPSR survey products:

Cheese: \$0.2643
 Dry whey: \$0.3361
 FDM: \$0.2750
 Butter: \$0.3176

Source *DFA Hearing Exhibit. 1. Cost of Processing in Cheese, Whey, Butter, and Nonfat Dry Milk Plants, p. 5.*

The second cost study, completed by Dr. William Schiek, projected manufacturing costs based on the Audited California Department of Food and Agriculture (CDFA) manufacturing cost surveys from 2003-2016. THE CDFA data, along with past work by Mark Stephenson, was used in USDA’s past updates to Federal Order the Allowances. The study found similar 2022 cost results to the Stephenson study:

Cheese: \$0.3006
 Dry whey: \$0.2953
 FDM: \$0.2653
 Butter: \$0.2364

Source: *DFA Hearing Exhibit 2. Forecasts of California Dairy Manufacturing Costs Using Regression Analysis of Audited Dairy Manufacturing Cost Data, p. 12.*

These results were no surprise to AMPI. AMPI Witness Steve Schlangen outlined how AMPI's manufacturing cost changes are consistent with the two studies above:

As the largest, cooperatively owned cheese company in the U.S., our cost of processing per manufactured pound clearly illustrates the outdated make allowances. I'll share these today through percent of change to protect proprietary information. The change is calculated from the cost of processing per manufactured pounds in fiscal year 2022 (December through November) compared to fiscal year 2008. The years are significant as it reflects the same period since make allowances were last updated.

The high-level percent change for AMPI bulk cheese products is 47% higher in 2022 than 2008. General plant expenses are up 62%.

Since the last make allowance update in 2008, cheesemaking equipment to facilitate fat recovery has been installed in each of AMPI's major cheese plants. Despite these capital investments to increase yield and plant efficiencies, AMPI's cost to convert milk to cheese still increased immensely.

Source: IDFA Exhibit 25. Testimony of Steve Schlangen, AMPI in support of proposals 8 & 9: IDFA and WCMA proposal, p. 4.

There was testimony from many other cooperatives corroborating AMPI's testimony. Other hearing witnesses representing cooperatives acknowledged significant cost increases equal to or higher than the Stephenson study.

Land O'Lakes testified they experienced a 50% increase in processing labor and 33% increase in utilities costs associated with butter manufacturing costs. For nonfat dry milk, the processing labor increased 38% and utilities cost increased 36%. Additionally, all other categories for butter and nonfat production increased 112%. *(NMPF Exhibit 14, Testimony of Christian Edmiston, P. 3.)*

Northwest Dairy Association reported their 2022 data showed manufacturing cost increases of over 80% since 2008. *(NMPF Exhibit 19, Testimony of Monty Schilter, P. 2)*

Maryland and Virginia Milk Producers Cooperative Assoc. (MDVA) testified to a 64% increase in their costs to process nonfat dry milk over the last twelve years. They also noted that these increased costs cannot be captured in the sale of a commodity product to the marketplace, resulting in reductions in their members' milk payments. *(NMPF Exhibit 23. Support for creating the Make Allowance – Supporting the NMPF Proposal # 7, (Michael ohn) p.7.)*

California Dairies, Inc. (CDI) bulk butter and nonfat dry milk facilities have been operating at a loss, which has been borne by its farmers. (R. Vandenheuvel (CDI) Tr. 2797 line 11 - 2798 line 21).

Foremost Farms testified that the 2023 Stephenson survey reported average costs that were “representative” of their own costs. (D. Hanson (Foremost Farms) Tr. 2754 line 25 - 2754 line 8).

Continued high manufacturing costs and farm bill delays make the adjustments supported in Proposals 8 and 9 more urgent.

The proposed 4-year transition for updating manufacturing allowances was a compromise and does not reflect current costs.

In AMPI’s hearing testimony, Mr. Schlangen addressed real need for immediate change in make allowance adjustments:

Though some caution a 15-year leap in make allowance values will hurt U.S. dairy farmers, AMPI contends it brings about more orderly marketing conditions and better reflects the relative value of all products. It also puts the regulated milk costs in greater alignment with the prices paid by the many unregulated competitors we compete against for product sales every day.

Experience in our plants more than justifies the proposed increases immediately. Some are proposing any changes in make allowances or other pricing be further delayed, giving futures markets time to adjust to the make allowance changes. In our view, any delay will magnify an already disorderly marketplace.

Source: IDFA Exhibit 25. Testimony of Steve Schlangen, AMPI in support of proposals 8 & 9: IDFA and WCMA proposal, pp. 4-5.

Both IDFA and WCMA discussed the timing of new make allowances prior to submitting their proposals to USDA. In his testimony, IDFA chief economist Mike Brown commented on the urgency for updates in both his testimony and during his appearance at the hearing.

IDFA reasonably could ask USDA to adopt as soon as possible the new make allowances set forth above. USDA has historically implemented with dispatch make allowances established by the most up to date, reliable, available cost data. The 2023 Stephenson study and the 2022 Schiek study cost figures constitute that data.

(IDFA Exhibit 6, Testimony of IDFA with respect to make allowance proposals, p.24.)

Some IDFA members would prefer that the make allowance increase be implemented all at once. Large make allowance increases are not unprecedented. For example, USDA in 2008 adopted a 42.7% increase in the make allowance for butter, which was made effective immediately, on an emergency basis.

M. Brown (IDFA) Tr. 4249 line 17 - 4250 line 23, Milk in the Northeast and Other Marketing Areas; Tentative Partial Final Decision on Proposed Amendments and Opportunity To File Written Exceptions to Tentative Marketing Agreements and Orders, 73 Federal Register 35306 (June 20, 2008) (raising the butter make allowances from \$0.1202 to \$0.1715 per pound).

It was only after considerable debate that WCMA's Board of Directors agreed to support this staggered implementation. The proposal to delay full implementation for four years is intended to be an accommodation to WCMA members' dairy farmer suppliers.

(WCMA Exhibit 1, Testimony of John T. Umhoefer, Wisconsin Cheese Makers Association, p 3.)

Continued delays of a new farm bill, which is necessary to authorize USDA to conduct audited manufacturing cost surveys — and start the lengthy process of survey and implementation — makes the need for immediate increases in production costs more urgent. We respectfully ask USDA to implement the make allowances included in Proposals 8 and 9, and the schedule for implementation be as rapid as possible.

Sincerely,



Dave Peterson
Boyd, Wis.
2024 AMPI Chairman of the Board



Steve Schlangen
Albany, Minn.
2023 AMPI Chairman of the Board



Sheryl Meshke
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CERTIFICATE OF SERVICE

Milk in the Northeast and Other Marketing Areas

Docket No.: 23-J-0067

Having personal knowledge of the foregoing, I declare under penalty of perjury that the information herein is true and correct, and this is to certify that a copy of the POST-HEARING BRIEF OF ASSOCIATED MILK PRODUCERS INC. has been furnished and was served by electronic mail upon the following parties on April 3, 2024 by the following:

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