

**IDFA TESTIMONY  
REGARDING MAKE  
ALLOWANCES  
PROPOSALS 7-9**

# HOW MAKE ALLOWANCES WORK

- **MINIMUM MILK PRICE OBLIGATION TO FARMERS = 100% of the price at which the reference commodities are sold, minus the make allowance.**
- “The ability of a manufacturer to offset cost increases is limited by the level of make allowances in the Class III and Class IV price formulas. Manufacturing processors are charged the FMMO minimum price for producer milk used to produce Class III and Class IV products. However, plant manufacturing cost increases may not be recovered because Class III and Class IV product-price formulas use make allowances that are fixed regardless of market conditions and change only by regulatory action.”  
*USDA, 2008 Make Allowance Decision*

# USDA: PLANT COSTS, NOT FARMER COSTS, DETERMINE MAKE ALLOWANCE LEVELS

- “Opponents of increasing make allowances argue a number of points— that they are already set at too high a level, that dairy farmer production costs also have increased significantly due to higher energy and feed costs, that processors should look beyond asking dairy farmers to receive less for their milk by charging more for manufactured products, and that make allowance increases should be made only when all dairy farmer production costs are captured in their milk pay price.
- These are not valid arguments for opposing how make allowances should be determined or what levels make allowances need to be in the Class III and Class IV product-pricing formulas.
- **When dairy farmer production costs exceed the value for which products are sold in the marketplace, no source of revenue from the marketplace is available to cover those costs.**

*continued....*

*- USDA 2008 Make Allowance Decision*

# USDA: PLANT COSTS, NOT FARMER COSTS, DETERMINE MAKE ALLOWANCE LEVELS

- ...
- In the aggregate, the costs of producing milk are reflected in the supply and demand conditions for the dairy products. When the supply of milk is insufficient to meet the demand for Class III and Class IV products, the prices for these products increase as do regulated minimum milk prices paid to dairy farmers because the milk is more valuable, and this greater milk value is captured in the pricing formulas.
  - **It is reasonable to conclude that the make allowances used in the Class III and Class IV product-price formulas should be updated to reflect changes in the costs manufacturers incur in producing cheese, butter, dry whey, and NFD. It is necessary to reflect changes in manufacturing costs so that with the prevailing market prices for manufactured products, minimum Federal order classified prices can be set.”**

*- USDA 2008 Make Allowance Decision*



# FARMERS' COST OF PRODUCING MILK PLAYS NO ROLE IN SETTING MAKE ALLOWANCES

“It is therefore neither inappropriate nor surprising that, while USDA considers producer costs in fixing prices, it declined to modify the make allowances to account for those costs. The make allowance is the input in the product-pricing formula that accounts the costs *manufacturers* incur in transforming raw milk into other dairy products. In order to extrapolate the value that raw milk contributes to the commodity prices of dairy products – and thereby approximate raw milk’s true value in the marketplace – these manufacturer costs must be included as part of the formula. The costs of *producing milk*, in contrast, are in the aggregate “reflected in the supply and demand conditions” that affect the NASS commodity prices of dairy products. See 73 Fed. Reg. at 35,324. Plaintiffs’ insistence that the make allowance – rather than the formula as a whole – reflect producers’ costs misapprehends the underlying pricing mechanisms.”

- *USDA/DOJ Brief Successfully Defending Legal Attack on the 2008 Make Allowances*

# FARMERS' COST OF PRODUCING MILK PLAYS NO ROLE IN SETTING MAKE ALLOWANCES

“In sum, the Secretary considered the costs [of producing milk] to producers, but reasoned that those costs could be recouped through market mechanisms. The make allowances, by contrast, represent the costs of handlers and are the only mechanism through which manufacturers' costs can be recouped under the pricing formulas. The Secretary concluded it was necessary to increase make allowances to reflect handlers' increased costs. Although the Secretary increased make allowances and thereby decreased the amount received by producers for a given market price, his well-reasoned analysis in the rulemaking record constitutes "consider[ing producers' feed and fuel] prices in determining whether or not to adjust make allowances," § 608c(17)(G)(iii).

*- D.C. Court of Appeals Decision Affirming the 2008 Make Allowances*

# USDA HAS ALSO EMPHASIZED THE NEED FOR MAKE ALLOWANCES THAT WILL RESULT IN MINIMUM MILK PRICES THAT ARE MARKET CLEARING

“The importance of using minimum prices that are market-clearing for milk used to make cheese and butter/nonfat dry milk cannot be overstated. The prices for milk used in these products must reflect supply and demand, and must not exceed a level that would require handlers to pay more for milk than needed to clear the market and make a profit.”

*- Federal Register /Vol. 64, No. 63 / Friday, April 2, 1999 / Proposed Rules 16095*

# USDA HAS CONSISTENTLY RELIED UPON THE KINDS OF SURVEYS PRESENTED AT THIS HEARING TO SET MAKE ALLOWANCES

## **April 2, 1999 USDA Order Reform Decision:**

“The make allowances contained in the proposed rule were developed primarily from make allowance studies conducted at and published by Cornell University and an analysis of manufacturing plant size in relationship to the data contained in the Cornell studies. Audited cost of production data published by the California Department of Food and Agriculture was also used in determining a reasonable level of make allowances.”



# USDA HAS CONSISTENTLY RELIED UPON THE KINDS OF SURVEYS PRESENTED AT THIS HEARING TO SET MAKE ALLOWANCES

## **December 7, 2000 USDA Decision Increasing Make Allowances:**

“[M]anufacturing costs used to determine appropriate make allowances for cheddar cheese, butter and nonfat dry milk in this proceeding are calculated primarily from a weighted average of the RBCS [Rural Business Cooperative Service] and CDFA [California Department of Food and Agriculture] surveys, with a check against the NCI [National Cheese Institute] survey cost of manufacturing cheddar cheese. The cost of manufacturing nonfat dry milk continues to be used as the cost of making whey powder due to the nature of the information in the hearing record about the actual costs of drying whey.”

# **USDA HAS CONSISTENTLY RELIED UPON THE KINDS OF SURVEYS PRESENTED AT THIS HEARING TO SET MAKE ALLOWANCES**

## **November 2006 USDA Decision Raising the Make Allowances:**

“This tentative final decision finds that combining the weighted average manufacturing costs of the [most recent] CDFA survey and CPDMP [Cornell Program on Dairy Markets and Policy] study for cheese, nonfat dry milk and butter into a single weighted average is appropriate for updating make allowances for those three products. The CPDMP study weighted average manufacturing cost of dry whey (without California) should be used for the dry whey make allowance.”

## **June 2008 USDA Decision Raising the Make Allowances:**

Relies on the 2006-07 Cornell cost studies led by Mark Stephenson and the CDFA study - both separately and in combination

# COMPARABLE DATA HAS BEEN SUBMITTED IN THIS HEARING

The New 2023 Stephenson study was very robust:

**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
		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

# THE 2023 STEPHENSON SURVEY COVERED SIGNIFICANTLY HIGHER SHARES OF ALL COMMODITIES EXCEPT BUTTER (2019)

**2019 USDA-NASS and Stephenson Cost Survey Dairy Product Volumes**

USDA NDPSR Cost Survey Products	USDA-NASS 2019 Annual Production	2021 Stephenson Cost Survey (2019 Data)			Survey Production Share of USDA NASS Production
		Participating Plants	Average Annual Production	Total Survey Annual Production	
Cheddar Cheese	3,736,753,000	10	61,050,768	610,507,680	16.3%
Whey (Human)	961,792,000	8	35,666,405	285,331,240	29.7%
Nonfat Dry Milk	1,851,110,000	29	44,425,802	1,288,348,258	69.6%
Butter	1,994,108,000	14	136,365,557	1,909,117,798	95.7%

Data Sources: Dairy Products 2020 Summary April 2021. 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

**2006 USDA-NASS and Stephenson Cost Survey Dairy Product Volumes**

USDA NDPSR Cost Survey Products	USDA-NASS 2006 Annual Production	2007 Stephenson Cost Survey (2006 Data)			Survey Production Share of USDA NASS Production
		Participating Plants	Average Annual Production	Total Survey Annual Production	
Cheddar Cheese	3,124,001,000	11	118,711,332	1,305,824,652	41.8%
Whey (Human)	1,063,551,000	7	58,722,459	411,057,213	38.6%
Nonfat Dry Milk	1,243,572,000	7	70,142,458	490,997,206	39.5%
Butter	1,448,428,000	4	57,626,803	230,507,212	15.9%

Data Sources: Dairy Products 2007 Summary April 2008. USDA NASS ISSN: 1057-784X PP11,23,29. Testimony on Cost of Processing in Cheese, Whey, Butter and Nonfat Dry Milk Plants, Federal Order Hearing, Pittsburgh, PA, Dr. Mark Stephenson, July 2007



# UPDATED, COMPARABLE DATA HAS BEEN SUBMITTED IN THIS HEARING

Dr. Stephenson's 2023 cost study established the following 2022 manufacturing costs.

Cheese:	\$0.2643
Dry Whey:	\$0.3361
NFDM:	\$0.2750
Butter:	\$0.3176

*Source: Cost of Processing in Cheese, Whey, Butter and Nonfat Dry Milk Plants,  
Mark Stephenson, Ph.D., June 2023*

# COMPARABLE DATA HAS BEEN SUBMITTED IN THIS HEARING

Dr. Schiek employed econometric techniques to CDFA audited annual dairy manufacturing cost data from 2003-16 to estimate 2022 manufacturing costs for Cheese, Dry Whey, NFDM and Butter.

Dr. Schiek's 2022 cost study establishes the following 2022 manufacturing costs:

Cheese:	\$0.3006
Dry Whey:	\$0.2953
NFDM:	\$0.2653
Butter:	\$0.2364

# THE STEPHENSON AND SCHIEK NUMBERS

The Stephenson and Schiek cost numbers for cheese, dry whey and nonfat dry milk are all fairly close:

	Stephenson	Schiek	Stevenson vs. Schiek	% Difference
<b>Cheese:</b>	<b>0.2643</b>	<b>0.3006</b>	<b>-0.0363</b>	<b>-13.7%</b>
<b>Dry Whey:</b>	<b>0.3361</b>	<b>0.2953</b>	<b>0.0408</b>	<b>12.1%</b>
<b>NFDM:</b>	<b>0.2750</b>	<b>0.2653</b>	<b>0.0097</b>	<b>3.5%</b>

The difference in butter is larger, but as a percentage, the exact same difference as occurred when make allowances were set in 2008:

Butter:	Stephenson	Schiek	Stevenson vs. Schiek	% Difference
<b>2023 Hearing</b>	<b>0.3176</b>	<b>0.2364</b>	<b>0.0812</b>	<b>25.6%</b>
<b>2008 Hearing</b>	<b>0.1846</b>	<b>0.1373</b>	<b>0.0473</b>	<b>25.6%</b>

USDA in 2008 set the butter make allowance as the weighted average between CDFA and Stephenson

# IDFA'S AND WCMA'S PROPOSED MAKE ALLOWANCES

IDFA and WCMA propose that make allowances be based upon an equal weighting of the results of the 2023 Stephenson study and the 2022 Schiek study, adding to the costs reflected in those studies an additional \$0.0015 for marketing costs, as has been USDA's consistent practice.

Cheese:	\$0.2840
Dry whey:	\$0.3172
NFDM:	\$0.2716
Butter:	\$0.2785



# **IDEFA'S AND WCMA'S PROPOSED FINAL (YEAR 4) MAKE ALLOWANCES AS A PERCENTAGE INCREASE OVER CURRENT MAKE ALLOWANCES**

<b>Cheese:</b>	<b>41.79%</b>
<b>Dry whey:</b>	<b>59.32%</b>
<b>NFDM:</b>	<b>61.86%</b>
<b>Butter:</b>	<b>62.39%</b>

# SEVERAL COOPERATIVES' TESTIMONY INDICATED GREATER COST INCREASES THAN THE IDFA/WCMA PROPOSAL

COMMODITY	Proposed IDFA	Cooperative Testimony		
		AMPI	LOL	NDA (Darigold)
Cheese:	41.8%	47%		
Dry Whey:	59.3%			
NFDM:	61.9%			
Butter:	62.4%			
NDM + Butter			81%	
All Four Commodities Combined				80%

**Notes:** Agri-Mark testified to a lower increase, apparently due in part to a balancing plant becoming a full operation plant.

Ellsworth testified to a lower increase, apparently due in part to its including almost no depreciation or return on investment, despite significant expansion.

# CALCULATION OF THE LOL PERCENTAGE INCREASE

Product	Expense Type	Stephenson 2007 Cost Survey per Pound	LOL Testimony - Percent Increase over 2007 Stephenson Survey	<i>Estimated LOL Change in Costs per Pound</i>
Butter	Processing labor	\$0.0522	50%	<i>\$0.0261</i>
Butter	Utilities	\$0.0157	33%	<i>\$0.0052</i>
NFDM	Processing labor	\$0.0362	38%	<i>\$0.0138</i>
NFDM	Utilities	\$0.0409	36%	<i>\$0.0147</i>
NFDM + Butter	All Other Costs	\$0.1009	112%	<i>\$0.1130</i>
NFDM + Butter	Weighted Costs per Pound @ FMMO Std Test	\$0.1750	81%	<i>\$0.1424</i>

Using LOL Costs and Standard FMMO Yields for Butter and NFDM, We estimate a Weighted Average Make Cost Increase of 81% per pound of Butter and NFDM

# IN THE 2008 DECISION, USDA USED THE WEIGHTED AVERAGE COSTS OF SURVEYED PLANTS TO SET MAKE ALLOWANCES

## Decision Setting the Current Make Allowances, June 20, 2008, 73 Federal Register 35306, 35225-26

- “The make allowances adopted represent national manufacturing cost averages for cheese, butter, NFDM and dry whey.”
- **Butter.** “The butter manufacturing cost data presented in the CPDMP 2006 survey reports **weighted average costs** based on a sample of four plants. These data are combined with the **average cost data** from the most recent CDFA survey and averaged over the 2006 national production volume as published by NASS. The **combination of the weighted average costs from the CPDMP and CDFA surveys** over the national production volume plus a marketing cost adjustment of \$0.0015 yields a make allowance \$0.1715 per pound for butter.”
- **Nonfat Dry Milk.** “The NFDM manufacturing cost data presented in the CPDMP 2006 survey reports **weighted average costs** based on a sample of 7 non-California plants. These data are combined with the **weighted average costs** reported by CDFA and averaged over the 2006 national NFDM production volume as reported by NASS. The combination of the weighted average costs from the CPDMP and CDFA surveys by the national production volume plus a marketing cost adjustment of \$0.0015 yields a make allowance \$0.1678 per pound of NFDM.”
- **Cheese.** “This decision finds that the CDFA 2006 survey of **average cheese manufacturing costs** is the best available information representing the manufacturing cost of producing a pound of cheddar cheese. Accordingly, the make allowance proposed for adoption for cheddar cheese is \$0.2003 per pound including \$0.0015 per pound marketing cost adjustment.”
- **Dry whey.** “This decision does rely on the CPDMP 2006 survey of the **average manufacturing cost** to produce a pound of dry whey. Relying solely on the CPDMP 2006 survey is identical to the approach used in determining the make allowance for dry whey currently used in the Class III price formula. The 2006 survey value of \$0.1976 plus a marketing cost adjustment of \$0.0015 yields a dry whey make allowance of \$0.1991 per pound.”



# PROMPT IMPLEMENTATION IS CRITICAL

- Make allowances below costs cause dairy processors to face financial losses, risk financial ruin, and/or lack appropriate financial incentive either to re-invest, expand or build new plants at to meet both market demand and milk supply needs.
- If manufacturers attempt to raise their commodity product prices to cover higher costs, those higher prices automatically lead to higher milk prices, leaving no additional net income to apply to the higher costs.

# AS AN ACCOMMODATION TO FARMERS, IDFA PROPOSES A STAGGERED PHASE IN

- Effective January 1, 2025, increase make allowances by 50% of the difference between the current make allowances and the make allowances established by the average of 2023 Stephenson study and 2022 Schiek study.
- On January 1 of each of the next three years, make allowances increased by one-third of the difference between the January 1, 2025 make allowances and the make allowances established by the average of 2023 Stephenson study and 2022 Schiek study.

# RECOGNIZING THE LARGE INCREASES DUE TO THE 15+ YEARS SINCE ANY ADJUSTMENTS, IDFA PROPOSES A STAGGERED PHASE-IN PERIOD

<b>Proposed Make Allowance Transition</b>					
<b>Product</b>	<b>Current Make Allowance</b>	<b>Year 1 Make Allowance</b>	<b>Year 2 Make Allowance</b>	<b>Year 3 Make Allowance</b>	<b>Year 4 Make Allowance</b>
<b>Cheese</b>	<b>\$0.2003</b>	<b>\$0.2422</b>	<b>\$0.2561</b>	<b>\$0.2701</b>	<b>\$0.2840</b>
<b>Whey</b>	<b>\$0.1991</b>	<b>\$0.2582</b>	<b>\$0.2778</b>	<b>\$0.2976</b>	<b>\$0.3172</b>
<b>NFDM</b>	<b>\$0.1678</b>	<b>\$0.2198</b>	<b>\$0.2370</b>	<b>\$0.2544</b>	<b>\$0.2716</b>
<b>Butter</b>	<b>\$0.1715</b>	<b>\$0.2251</b>	<b>\$0.2428</b>	<b>\$0.2607</b>	<b>\$0.2785</b>

Year 1:            50% of total Make Change  
 Years 2, 3, 4    1/3 of remaining Make Change per year

# NMPF'S PROPOSAL 7 IS UNACCEPTABLE

- Proposal 7 only raises make allowances by less than half of the actual increase in costs of manufacture since make allowances were last increased in 2008

Commodity	Stephenson & Schiek Studies	NMPF Proposed Make Allowances	NMPF vs. Stephenson & Schiek Studies
Cheese	\$0.2840	\$0.2400	-\$0.0440
Dry Whey	\$0.3172	\$0.2300	-\$0.0872
NFDM	\$0.2716	\$0.2100	-\$0.0616
Butter	\$0.2785	\$0.2100	-\$0.0685

- NMPF Members have repeatedly acknowledged this shortfall in their sworn testimony on Proposal 7
- NMPF's proposed \$0.2400 cheese make allowance is even less than CDFA's \$0.2454 cheese cost of production figure from its 2016 audited survey



# **NMPF'S PROPOSAL 7 IS UNACCEPTABLE**

- **NMPF only holds 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**
- **USDA, if given the authority, might be able to establish new make allowances by January 1, 2027; that remains uncertain**

# MANY STEPS TO IMPLEMENTING A MANDATED SURVEY

**NMPF's one-time adjustment would not move makes to real costs until all of the following steps had occurred:**

- 1. Congress enacts legislation providing the legal authority for such mandatory, audited cost surveys;**
- 2. USDA promulgates regulations by which such authority is carried out;**
- 3. USDA devises the surveys, conducts the surveys, audits the results, and publishes the results;**
- 4. Industry participants petition USDA to hold hearings to raise the make allowances to reflect the new survey.**

*Continued...*

# MANY STEPS TO IMPLEMENTING A MANDATED SURVEY

*... Continued:*

5. **USDA solicits and received other proposals**
6. **USDA notices the hearing**
7. **The hearing takes place**
8. **The transcript is published and corrected**
9. **Post hearing briefs are filed**
10. **A recommended decision is issued (assuming no “emergency”)**
11. **Comments on the recommended decision are submitted**
12. **A final decision is issued**
13. **Farmer referendums are held**
14. **Updated Federal Orders are enacted.**

**ALL NMPF MEMBERS DO NOT EVEN AGREE TO  
IMPLEMENTATION OF THE RESULTS OF THE  
AUDITED, MANDATORY SURVEYS  
REGARDLESS OF PROCESS**

“[Even] If [credible and reliable] information [regarding costs of manufacture] existed, and it suggested a make allowance change of more than a few cents per pound, we would be restrained from advocating for the full implementation of the change due to the impact on milk prices and profitability of our farmer-owners.”

**Testimony of Ed Gallagher, Dairy Farmer of America,  
Hearing Exhibit 175**



# **INCREASING MANUFACTURING COSTS ARE NOT NEW KNOWLEDGE**

**Cost Surveys have shown increases for many years**

**2010-2016      CDFA COST SURVEYS**

**2021            STEPHENSON SURVEY (2019)**

**2023            STEPHENSON SURVEY (2022)**

**Growing Mailbox Price Gap vs Announced Prices**

**Significant Negative “Premiums”**

**THE LONG-NEEDED UPDATE TO  
INADEQUATE MAKE ALLOWANCES  
CANNOT BE DELAYED ANY LONGER**