

House Committee on Agriculture
Farm Bill Audit

1. Program Name

Dairy Product Mandatory Reporting

2. Subprograms/Department Initiatives

AMS Dairy Program

3. Brief History

The Dairy Product Mandatory Reporting Program was established on August 2, 2007, on an interim final basis, with final implementation effective June 22, 2008. The program: (1) requires persons engaged in manufacturing dairy products to provide to USDA certain information including the price, quantity, and moisture content, where applicable, for cheddar cheese, butter, dry whey, and nonfat dry milk (NFDm) sold by a manufacturer on a weekly basis; and (2) requires manufacturers and other persons storing dairy products to report to USDA information on the quantity of dairy products stored. Any manufacturer that processes and markets less than 1 million pounds of the applicable dairy products per calendar year is exempt from these reporting requirements.

For the first requirement, the National Agricultural Statistics Service (NASS) currently collects and publishes information for the program. AMS provides verification and enforcement functions to ensure accuracy of the price information reported to NASS. The second requirement is solely a function of NASS. Prior to implementation of the Dairy Product Mandatory Reporting Program information was collected on a voluntary basis. NASS began publishing cheddar cheese sales information in 1997 and began publishing butter, NFDm, and dry whey sales information in 1998.

AMS has established a verification program to verify that sales transactions match information reported to NASS and applicable sales transactions are not excluded. AMS currently visits larger entities accounting for 80 percent of yearly reported product volume of specified dairy products at least once annually. AMS visits one-half of the entities accounting for the remaining 20 percent at least once every other year. During each visit, AMS reviews applicable sales transaction records for at least the four most recent weeks. In some cases, AMS may review sales records for periods of up to 2 years. AMS also conducts additional verification procedures on an as-needed basis when price information may be questioned.

The 2008 Farm Bill requires that an electronic system be employed to collect information for the Dairy Product Mandatory Reporting Program on a more frequent basis subject to the availability of funds. The Farm Bill also requires quarterly audits of program information. Funds have not been made available for an electronic reporting system, more frequent collection of data, or quarterly audits.

The Mandatory Price Reporting Act of 2010 requires that the Secretary establish an electronic reporting system for manufacturers of dairy products to report certain market information for the mandatory dairy product reporting program. The amendment further states that the Secretary shall publish the information obtained under this section for the preceding week not later than 3 p.m. Eastern Time on Wednesday of each week.

4. Purpose/Goals

The purpose of the program is to provide accurate and timely market information for dairy industry participants. Widely available market information provides transparency to assist markets in operating competitively and fairly. Data collected through the program is used as the price discovery mechanism to establish minimum prices for the Federal order system.

The program will continue reporting dairy commodity sales information that is accurate but released a day and a half earlier. The electronic system will be designed to minimize the burden on reporting entities.

5. Success in Meeting Programmatic Purpose/Goals

As required in the 2008 Farm Bill, AMS has successfully implemented a verification and enforcement program to ensure the accuracy of information provided to NASS for the required dairy product prices. Due to continual outreach and education, a significant decline has occurred in reporting errors. In 2007, 35 discrepancies were discovered by AMS on audit while to-date in 2011 only 4 discrepancies have been discovered by AMS. Since inception of the verification program, a total of 91 discrepancies have been found.

A proposed rule was published on June 10, 2011, which included regulatory changes for implementing the provisions of the Mandatory Price Reporting Act of 2010 and for transferring data collection responsibilities from NASS to AMS. Seven comments were received by August 9, 2011, and a final rule is being prepared. Following beta-testing, mandatory electronic collection of dairy product prices is expected to begin January 1, 2012.

6. Annual Budget Authority (FY2002-FY2011)

Additional budget authority has not been authorized for this activity within the Dairy Marketing Agreements & Orders (MA&O) program. AMS prioritized the available resource for MA&O in order to allow for dairy price verification from 2007-2011. Additional one-time funding within current resources was provided in FY 2011 to modify the Agency's existing Livestock Mandatory Price Reporting System to accommodate selected dairy products. The following legislative timeline identifies the evolution of dairy mandatory reporting:

Fiscal Year	Legislative Reference
2000-2001	Dairy Enhancement Act of 2000 (P.L. 106-532) – established mandatory reporting for dairy products
2002-2007	2002 Farm Bill (P.L. 107-171) - amended above Act to modify the definition of products
2008-2010	2008 Farm Bill (P.L. 110-246) - develop a system and conduct quarterly audits
2011	2010 Mandatory Price Reporting Act (P.L. 111-239) - required electronic reporting system and established a publication schedule

7. Annual Outlays (FY2002-FY2011)

**Annual Outlays
FY 2002 - FY 2011
(\$ in thousands)**

	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u> <u>Est.</u>
Outlays	0	0	0	0	0	300	300	300	300	858
<i>(This includes verification expenses 2007-2011 plus 1x IT expense in 2011 to modify the LMR System for DY reporting.)</i>										

8. Annual Delivery Cost (FY2002-FY2011)

**Annual Delivery Costs
FY 2002 - FY 2011
(\$ in thousands)**

	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u> <u>Est.</u>
Annual Delivery Costs	0	0	0	0	0	300	300	300	300	858
<i>(This includes verification expenses 2007-2011 plus 1x IT expense in 2011 to modify the LMR System for DY reporting.)</i>										

9. Eligibility Criteria

As required by law, dairy manufacturers producing and selling one million pounds or more of specific dairy products (cheddar cheese, butter, nonfat dry milk and/or dry whey) per calendar year, are required to participate in the weekly surveys.

10. Utilization (Participation) Data

In 2010, there were 88 dairy product plants that were subject to mandatory reporting of sales data for one or more products. Fifty-two entities reported data for one or more plants.

11. Duplication or Overlap with Other Programs

A final rule will implement the provisions of the Mandatory Price Reporting Act of 2010 transfer applicable data collection responsibilities from NASS to AMS. During voluntary software beta testing NASS and AMS will run parallel programs for about two months to ensure system is fully operation before eliminating NASS's responsibilities.

12. Waste, Fraud and Abuse

Not applicable.

13. Effect of Administrative Pay-go

Not applicable.

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Farm Bill Audit

1. Program Name

Dairy Import Assessment

2. Subprograms/Departmental Initiatives

AMS Dairy Program

3. Brief History

The U.S. Department of Agriculture has announced a Final Rule that amends the Dairy Promotion and Research Order (Dairy Order) and implements a dairy import assessment program as required by the Dairy Production Stabilization Act of 1983, as amended. The program implements the equivalent of 7.5 cents per hundredweight of milk assessment on imported dairy products; adds two importer members to the National Dairy Promotion and Research board; amends the term “United States” to mean all States (adding Alaska and Hawaii), the District of Columbia and the Commonwealth of Puerto Rico; and extends the mandatory 15-cent per hundredweight of milk assessment to dairy farmers in Alaska, Hawaii, and the Commonwealth of Puerto Rico.

4. Purpose/Goals

The Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) mandates that the Dairy Order be amended to implement an assessment on imported dairy products to fund promotion and research. The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) specifies a mandatory assessment rate of 7.5 cents per hundredweight of milk, or equivalent thereof, on dairy products imported into the United States.

5. Success in Meeting Programmatic Purpose/Goals

All provisions were effective April 1, 2011, with the exception of those regarding importer assessments. Importer assessment provisions became effective on August 1, 2011. Importer payments are made directly to the U.S. Customs and Border Patrol and are forwarded to the Dairy Promotion and Research Board.

6. Annual Budget Authority (FY2002-FY2011)

Not applicable.

7. Annual Outlays (FY2002-FY2011)

Not applicable.

8. Annual Delivery Cost (FY2002-FY2011)

Not applicable.

9. Eligibility Criteria

An applicant must be an importer of dairy products into the United States as a principle or as an agent, broker, or consignee of any person who produces or handles dairy products outside of the United States, and who is listed as the importer of record for such dairy products. A producer is defined as any person engaged in the production of milk for commercial use.

10. Utilization (Participation) Data

There are an estimated 2,600 dairy importers that are affected by the dairy import assessment and an estimated 350 producers in the added areas of Alaska, Hawaii, the District of Columbia and the Commonwealth of Puerto Rico.

11. Duplication or Overlap with Other Programs

Not applicable.

12. Waste, Fraud and Abuse

Not applicable.

13. Effect of Administrative Pay-go

Not applicable.

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1. Program Name

Federal Milk Marketing Orders including Forward Contracting and the Formal Rulemaking Process

2. Subprograms/Department Initiatives

AMS Dairy Program

3. Brief History

Federal milk marketing orders (FMMO) are authorized by the Agricultural Marketing Agreement Act of 1937, as amended. There are currently 10 FMMO areas, impacting about 65 percent of all milk marketed in the U.S. These 10 orders are administered by 8 market administrators.

FMMOs are initiated and amended through industry requests that are addressed through the formal rulemaking process. This includes hearings, briefings, recommended decisions, public comments, final decisions, farmer votes, and, ultimately, implementation by USDA. Changes in FMMOs are approved by an affirmative vote of two-thirds of the eligible dairy farmers.

The 2008 Farm Bill directed USDA to establish supplemental rules to define guidelines and timeframes to improve the timeliness of the Federal milk order hearing process. AMS published this final rule on August 20, 2008.

The 2008 Farm Bill also directed AMS to establish a Dairy Forward Pricing Program to allow milk producers and cooperative associations to voluntarily enter into forward price contracts with milk handlers for milk used for non-fluid purposes. The program exempts handlers regulated under the Federal milk order program from paying producers and cooperative associations the minimum Federal order price for milk under forward contract. AMS published this final rule on October 31, 2008.

4. Purpose/Goals

The objectives of the FMMO system are to stabilize market conditions, to benefit producers and consumers by establishing and maintaining orderly marketing conditions, and to assure consumers of adequate supplies of pure and wholesome milk at all times. The FMMO program assures dairy farmers a minimum price for their milk while assuring that consumers have an adequate supply of milk to meet their needs throughout the year.

5. Success in Meeting Programmatic Purpose/Goals

Forward Contracting – Handlers that enter into forward contracts with producers are required under 7 CFR Part 1145 to file a copy of the contract with a Market Administrator office. Less than 100 dairy farmers have utilized the forward contracting program since 2008.

Rulemaking Process – Only one hearing has been initiated and completed under the new timeframes outlined in the supplemental rules of practice for milk marketing orders (see 7 CFR 900.20 through 900.33). USDA recently received a request for a hearing in the Mideast

Marketing Area and will soon announce that a hearing will be held beginning October 4, 2011, in Cincinnati, OH, to consider changes to the order.

6. Annual Budget Authority (FY2002-FY2011)

**Annual Budget Authority
FY 2002 - FY 2011
(\$ in thousands)**

	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
										<u>Est.</u>
Budget Authority	4,324	4,439	4,582	4,704	6,973	4,444	4,530	4,269	6,861	6,861

Note: The budget authority for Marketing Orders and Agreements (MA&O) helps to establish orderly marketing conditions for milk, fruits, vegetables, and specialty crops.

7. Annual Outlays (FY2002-FY2011)

**Annual Outlays
FY 2002 - FY 2011
(\$ in thousands)**

	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
										<u>Est.</u>
Outlays	4,716	4,663	4,660	5,204	5,428	5,546	5,477	5,837	6,846	6,400

Explanation: The budget authority may be different from outlays due to timing of payments and the accounting process.

8. Annual Delivery Cost (FY2002-FY2011)

**Annual Delivery Cost
FY 2002 - FY 2011
(\$ in thousands)**

	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
										<u>Est.</u>
Direct Costs	4,275	4,165	4,454	4,797	4,699	4,962	5,202	5,299	5,799	5,703
Indirect Costs	483	453	474	474	516	527	584	599	710	697
Total Costs	4,758	4,618	4,928	5,271	5,215	5,489	5,786	5,898	6,509	6,400

There have been no additional delivery costs in implementation of the expedited rulemaking process.

The costs associated with the forward contracting program are minimal due to the low participation rate.

9. Eligibility Criteria

During 2010, nearly 127 billion pounds of milk was pooled from 45,918 producers on Federal milk marketing orders. This represents about 65 percent of all milk produced in the United States.

10. Utilization (Participation) Data

Fewer than 100 farmers have utilized the forward contracting program.

11. Duplication or Overlap with Other Programs

Not applicable.

12. Waste, Fraud and Abuse

Not applicable.

13. Effect of Administrative Pay-go

Not applicable.