

Supporting Statement – Part A

MILK AND MILK PRODUCTS

OMB No. 0535-0020

A. JUSTIFICATION

This is a request for an emergency approval of a revision of the NASS milk and milk products information collection. The Agricultural Marketing Service (AMS) Interim Final Rule was published in the Federal Register on Tuesday, July 3, 2007. That rule established a Dairy Product Mandatory Reporting Program. In preparation for this new ruling, NASS submitted an emergency review request in May 2007 to get approval of the new mandatory constraint that was added to all of the affected questionnaires. The Interim Final Rule was given an expiration date of 12 months. The Interim Final Rule had an extended comment period, which closed on December 3, 2007. In January 2008, NASS received a regular 3 year approval for the Milk and Dairy Products docket (0535-0020). Since the closing of the comment period AMS has had time to review both the comments and the Final Rule. AMS has deemed it necessary to make some fine tuning changes to the questionnaires to clarify a few points that were missed when they submitted the questionnaires for the previous approval process. These substantive changes serve to add clarity to the questionnaires and help to insure the intent of the Final Rule is adhered too.

In response to the request made by the Agricultural Marketing Service (AMS) for more detail and clarity to the questionnaires to insure standardized price reporting by the dairy industry, NASS is requesting these substantive changes.

Some of the detailed information that is already included on the Annual Validation Survey are now included on the weekly price questionnaires. This includes:

- Certified organic dairy products and dairy products produced under faith based practices are to be excluded,
- Brokerage fees and clearing charges paid by the manufacturer were moved from exclude to include,
- Products sold under the Dairy Export Incentive Program (DEIP) and CWT Program were previously included; they are now to be excluded.

The Dairy Product Prices Annual Validation Worksheet was approved for use in the previous OMB approval process. After it had been used for one cycle, NASS received input from some of our Field Offices with suggestions for changes that would improve the usefulness of the questionnaire. The annual validation was designed to have three primary purposes; first, it is used as a tool in establishing the firms that need to reply to the four weekly surveys. Secondly, it is used as a training instrument to instruct respondents on which items to include or exclude in the various questions when calculating their responses, and lastly to record each respondents answers as to their ability to report dairy product prices consistent with the needs of AMS. In the event that there should be an audit of the Dairy Product Price program, AMS needed to have proper documentation that the data was reported in a consistent and accurate manner.

Screening questions were added to the front page of the Dairy Product Prices Annual Validation Worksheet. These questions were added to streamline the questionnaire along with reduce the amount of time (burden) it takes for the respondent to complete the questionnaire.

Additional information was added throughout the questionnaire to give greater clarity to the items listed in the questionnaire. There will be at least one trained statistician in each Field Office who will be conducting the Annual Validation Surveys in each State. This additional information is provided to the statisticians conducting the interview to help them explain any areas of confusion that the respondent may have. The majority of the questions have two columns to respond to. If the operation that is being interviewed is new to this survey the answers will be recorded in the second set of responses. If the respondent was in the sample last year and they respond "NO" to any question a mark will be made in the first "NO" column and a follow up question will be asked to see if the respondent can provide data in the desired manner.

Rounding rules and cheddar cheese moisture adjustments have been incorporated into the tables instead of being listed as bulleted items.

In response to the Inspection Report issued by the Office of Inspector General (OIG) in February 2008, NASS has included two questions on the weekly questionnaires and on the Annual Validation that acknowledges that the respondent has read and understands the instructions provided on the questionnaire(s). When NASS conducts the annual validation with each operation selected for a Dairy Product Price Survey we work with the respondent(s) who will normally be completing the questionnaires each week. If that person is unavailable to complete the questionnaire one or more weeks in a year (vacation, sick leave, etc.) and someone else within the operation completes the questionnaire we have verification that the person who completed the questionnaire understands the reporting specifications under AMS's Final Rule. The two new questions in Section 2 of the weekly questionnaires can be used to identify which respondents warrant a phone call to verify their understanding of the survey specifications and to ensure that the correct prices have been reported for every week.

Some other cosmetic changes made to the questionnaires were done to standardize the questionnaires with other NASS surveys, but more importantly to make it easier for the respondent to complete the questionnaire in a timely and accurate manner.

There have been no changes to the survey or sampling methodology or procedures previously approved. The minor adjustments made to the Dairy Product Prices Program that AMS is managing, have been approved and are scheduled to be released to the public in mid June, 2008. NASS requests the Emergency approval of this collection with the questionnaire changes by June 10, 2008, so that we are collecting data that are consistent with the new ruling being published by AMS.

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The National Agricultural Statistics Service's primary function is to prepare and issue official State and national estimates of crop and livestock production, disposition, and prices. Estimates of milk production, manufactured dairy products, and manufactured dairy product prices are an integral part of this program. Milk and dairy statistics are used by the U. S. Department of Agriculture to help administer price support programs and by the dairy industry in planning, pricing, and projecting supplies of milk and milk products.

General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. The legislative actions which affect these surveys are from November 2000, when Congress enacted the "Dairy Market Enhancement Act of 2000," U.S. Code Title 7, Section 1627, which changed the program from voluntary to mandatory for reporting the price, quantity, and moisture content of butter, non-fat dry milk, cheddar cheese, and dry whey.

Amendments have recently been published to the Agricultural Marketing Act of 1946 in conformance with legislated changes of the recently enacted Dairy Market Enhancement Act of 2000 and the Farm Security and Rural Development Act of 2002. The amendments establish a program of mandatory dairy product information reporting. The program requires each manufacturer to report to USDA information concerning the price, quantity, and moisture content of dairy products sold by the manufacturer. In addition, entities storing dairy products are to report information on the quantity of dairy products stored. Any manufacturer or other entity that processes, markets, or stores less than 1,000,000 pounds of dairy products per year are exempt. The program will provide timely, accurate, and reliable market information; facilitate more informed marketing decisions; and promote competition in the dairy product manufacturing industry.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Statistics on milk production and manufactured dairy products are used by the U.S. Department of Agriculture to carry out the National Dairy Support Program. The Agriculture Act of 1949, as amended (7 U.S.C. 1446) states that "The price of milk shall be supported at such level ... as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, ... such price support shall be provided through purchases of milk and the products of milk."

Estimates of total milk production, number of milk cows, and milk production per cow are used extensively by the dairy industry in planning, pricing, and projecting supplies of milk and milk products. The Agriculture and Consumer Protection Act of 1973 (PL 93-86) directed the Secretary of Agriculture to conduct cost of production studies for certain commodities including milk. These data are used by the USDA's Economic Research Service to update the Cost of Production estimates. Plant receipts of milk by State of origin and milk tests are also used as bench marks for cash income from dairying. The dairy industry is the second largest farm sector with over 23 billion dollars in milk

production in 2006. The USDA Foreign Agricultural Service uses NASS production data to develop export incentive programs

Under the current Farm Bill, the Secretary of Agriculture has the authority to change price support levels based on "trigger" purchases. NASS production data is used to identify trends and predict when the "trigger" purchase point will occur.

Manufactured dairy products statistics are collected monthly and used by USDA to establish monthly estimates of stocks, shipments, and prices received for such products as butter, cheese, dry whey, and nonfat dry milk. Manufactured dairy products surveys are now mandatory surveys collected monthly and used by USDA to assist in the determination of the fair market value of raw milk. Manufactured dairy products prices are mandatory surveys collected weekly and are also used by USDA to assist in the determination of the fair market value of raw milk. The Economic Research Service puts together per capita consumption of all dairy products, including ice cream, using NASS data.

The price of milk is supported by the Agricultural Commodities Act which is administered by USDA's Agricultural Marketing Service. This price is supported through the purchase of manufactured dairy products such as ice milk, ice cream mix, and yogurt mix. The principal products that are purchased at support levels are butter, nonfat dry milk, and cheese. Two of these products, butter and dry milk, are used in the manufacture of ice milk and ice cream. Therefore, NASS collects data on ice milk, ice cream, and several other related items to account for the use of the butter and dry milk. To ensure complete coverage, NASS collects statistics on all manufactured dairy products. These products are converted back to a raw milk basis to account for all methods of sales.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Nearly all of NASS information collections have been converted to Web-based data collection, what NASS calls electronic data reporting or EDR. The remaining instruments that will not be converted are too infrequent or impractical to use that mode of data collection. NASS developed a computer software Questionnaire Repository System (QRS) to enable simultaneous creation of matching paper and Web survey instruments from the same parameters. Dairy product prices surveys are published on the Web; approximately 18% of these surveys are completed via the Internet.

The main portal for our on-line surveys is <http://www.agcounts.usda.gov>. Respondents are mailed an instruction sheet to reach this site along with the survey questionnaire. Once there, the respondents have to enter the valid survey code and their own user ID printed on the label of the questionnaire mailed to them. We do not want anyone other than a selected respondent to access the survey web pages.

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The National Agricultural Statistics Service cooperates with State Departments of Agriculture and land grant universities to conduct agricultural surveys. Reports for milk receipts, prices, and dairy products manufactured are required by State statutes in the following 19 states: California, Connecticut, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, North Dakota, Ohio, Tennessee, Virginia, and Wisconsin. Data used for the Federal program are collected and tabulated by NASS or the State and the results are shared. This eliminates duplication of data gathering by two agencies.

5. **If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

Samples are selected only from manufacturers or other entities that process, market, or store more than 1 million pounds of dairy products per year. Information requested on monthly and quarterly milk production inquiries can be provided with a minimum of difficulty by the respondent and generally without having to consult their record books. Respondents can complete the manufactured dairy product and dairy product prices questionnaires from their normal day-to-day operating records.

6. **Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Collecting data less frequently would prevent USDA and the agricultural industry from being kept abreast of changes at the State and national level.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with the general information guidelines in 5 CFR 1320.5.**

Dairy products price data are collected weekly to meet the time requirements for the announcement of milk price supports under the Federal Order Program.

8. **Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.**

The Federal Register Notice soliciting comments was published on August 1, 2007, on pages 42043-42044. No public comments were received.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record-keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

NASS consults with other government agencies such as the Agricultural Marketing Service (AMS), Economic Research Service (ERS), and Animal and Plant Health Inspection Service (APHIS) on a regular basis. Other groups consulted are the Dairy Herd Improvement Association and Marketing Associations. There are extensive meetings with representatives from the dairy industry to accurately assess requirements. NASS invites comments from producers on all data collection instruments.

9. Explain any decision to provide any payment or gift to respondents.

There are no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

All questionnaires include a statement that individual reports are kept confidential. U.S. Code Title 18, Section 1905 and U.S. Code Title 7, Section 2276 provide for the confidentiality of reported information. All employees of NASS and all enumerators hired and supervised under a cooperative agreement with the National Association of State Departments of Agriculture must read the regulations and sign a statement of compliance. (Privacy Impact Statement is attached.)

For those facilities which store human-grade nonfat dry milk or dry whey, response to the Monthly Dairy Products Report is **mandatory** and subject to verification by the Agricultural Marketing Service (AMS) under **Public Law No. 106-532**. This law specifically protects the confidentiality of the operator's data from public disclosure, except as directed by the US Secretary of Agriculture or the US Attorney General for enforcement purposes to ensure compliance with the Dairy Product Mandatory Reporting program. (Copy of the law is included as an attachment in the supporting documents)

11. Provide additional justification for any questions of a sensitive nature.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

Requested annual response burden is shown below.

Projected Milk and Milk Products Response Burden for 2007											
Survey	Sample Size	Freq	Responses				Non-response				Total Burden Hours
			Count	Freq x Count	Min./ Resp.	Burden Hours	Count	Freq. x Count	Min./ Nonr	Burden Hours	
Voluntary Surveys											
Milk Production											
Monthly States											
Jan	11,000	1	9,000	9,000	6 ^{1/}	900	2,000	2,000	2	67	967
Feb - Dec	4,500	11	3,800	41,800	6	4,180	700	7,700	2	257	4,437
Quarterly States											
Jan	5,000	1	4,000	4,000	6	400	1,000	1,000	2	33	433
Apr, Jul, Oct	3,200	3	2,700	8,100	6	810	500	1,500	2	50	860
Manufactured Dairy Products ^{2/}											
Monthly	800	12	600	7,200	15	1,800	200	2,400	2	80	1,880
Annual	200	1	150	150	60	150	50	50	2	2	152
Voluntary Subtotal	24,700			70,250		8,240	4,450	14,650		489	8,729
Frequency				2.84413				3.29213			
Mandatory Surveys											
Manufactured Dairy Products ^{3/}											
Monthly	100	12	100	1,200	15	300	0	0	0	0	300
Dairy Product Prices											
Annual Validation	160	1	160	160	20	53	0	0	0	0	53
Cheddar Cheese	30	52	30	1560	20	520	0	0	0	0	520
Butter	21	52	21	1092	20	364	0	0	0	0	364
Dry Whey	22	52	22	1144	20	381	0	0	0	0	381
Nonfat Dry Milk	38	52	38	1976	20	659	0	0	0	0	659
Survey Follow-up Materials ^{4/}											
Verification (2%)	7	52	7	364	5	30	0	0	0	0	30
Change Notification	371	.2	371	74	20	25	0	0	0	0	25
Mandatory Subtotal	371			7,570		2,332		0		0	2,332
Frequency				20.40485				0			
Total	25,071			77,820		10,572		14,650		489	11,061

^{1/} Milk-related questions take 6 minutes; hay price questions (0535-0003) take 9 for total of 15 as on questionnaire.

^{2/} All products except dry whey and NF dry milk.

^{3/} Dry whey and NF dry milk only.

^{4/} These materials are sent to respondents in mandatory category—they are not additional respondents and are not included in sample size totals.

Cost to the public of completing the questionnaires is assumed to be comparable to the hourly rate of those requesting the data. Reporting time of 11,061 hours is multiplied by \$24 per hour (estimated rate for business supervisor) for a total cost to the public of \$265,464.

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information.

There is no annual cost burden to respondents.

14. Provide estimates of annualized cost to the Federal government; provide a description of the method used to estimate cost which should include quantification of hours, operational expenses, and any other expense that would not have been incurred without this collection of information.

The total cost to the federal government for the Milk and Milk Products Surveys is \$1.5 million.

15. Explain the reasons for any program changes or adjustments (reasons for changes in burden).

Any additional burden that may be generated by the few additional questions added to the Dairy Product Price questionnaires will be offset by the cleaner flow of the questionnaires along with the use of the screening questions that were added to the Annual Validation Survey. Overall, we do not anticipate any change in burden from the previous approval.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The monthly milk production questionnaires are mailed to a sample of dairy producers about the 21st of the month. The three indications of milk cow numbers are:

- a. The *direct expansion* is derived by multiplying the average number of milk cows per farm reported in each stratum by the estimated number of milk cow farms in each stratum. Individual strata expansions are added to a state total.
- b. The *identical expansion* is obtained by matching current survey reports with reports for the previous month or quarter. After identical reports have been tabulated by stratum, a percent change for milk cows is calculated for each stratum. This indicated percent change is multiplied by the estimated number of milk cows on farms the previous month or quarter in each corresponding stratum and provides an indication of the current number of milk cows.
- c. The *ratio-to-base expansion* is similar to the identical expansion in that the current reports are matched with reports from a January base period. This comparison is used to reflect the change in milk cows from the base month. Since all states conduct a large scale cattle inventory survey the first of each

year (OMB No. 0535-0213) current reports are matched with the January 1 base period. The indicated change from the base in each stratum is applied to the estimated number of cows in each stratum at the beginning of the base. The sum of these stratum expansions is an indication of milk cow numbers for the current month or quarter.

Questionnaires are edited and summarized in time for estimates to be received in Washington, D.C., Headquarters on the 12th or 13th of the next month. Milk production estimates are released from Washington, D.C. 4 to 5 days later. There is the regular monthly publication, *Milk Production*, a special January issue, and an annual summary. These publications and those mentioned below are available on-line immediately after release at http://www.nass.usda.gov/Publications/Reports_by_Title/index.asp.

The monthly manufactured dairy products questionnaires are mailed to dairy plants the last business day of the month. Respondents have approximately 14-21 days to return their report. The estimating procedure for the monthly manufactured dairy products involves matching survey reports with reports from the same respondent the previous month and previous year. After these identical reports are summarized, product by product, the percentage change is calculated. The indicated change in production, multiplied by the previous month's estimate, is the estimate for the current month. Field Offices prepare a listing of data by month for all plants in the universe.

Summarized State data are due in Washington, D.C. about the 24th of the month. This data is reviewed and published about the 5th of the following month. In addition to the monthly publication, *Dairy Products*, there is an annual survey questionnaire and annual summary publication.

The dairy products prices questionnaires for cheddar cheese, butter, dry whey, and nonfat dry milk are mailed out and results are published weekly in *Dairy Product Prices*. Reporting prices for these commodities is mandatory.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There is no request for approval of non-display of the expiration date.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions" of OMB Form 83-I.

There are no exceptions to the certification statement.

May, 2008