



## **Agricultural Marketing Service**

### **7 CFR Part 1171**

**[Doc. No. AMS-DA-25-0585]**

**RIN 0581-AE47**

## **Mandatory Manufacturing Cost Survey Advanced Notice of Proposed Rulemaking**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** This advance notice of proposed rulemaking (ANPR) seeks input from stakeholders on the development of mandatory surveys of dairy production cost and product yield information, as authorized by the One Big Beautiful Bill Act of 2025 (OBBBA). USDA's Agricultural Marketing Service (AMS) seeks comments on the manufacturing cost and product yield data to be collected, the collection process, cost calculation methodologies, verification processes, and data reporting. Information received from public comments will inform USDA's approach to this legislative mandate.

**DATES:** Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Comments may be submitted through the Federal e-rulemaking portal at <https://www.regulations.gov> and should reference the document number, date, and page number of this issue of the *Federal Register*. Written comments may be submitted via mail to USDA/AMS/Dairy Programs, Stop 0225-Room 2530, 1400 Independence Avenue SW, Washington, DC 20250-0225. All comments submitted in response to this ANPR, including the identity of the individuals or entities submitting the comments, will be included in the record and made available to the public, and can be viewed at <https://www.regulations.gov>. Comments are posted without change.

**FOR FURTHER INFORMATION CONTACT:** Erin Taylor, USDA/AMS/Dairy Program, Order Formulation and Enforcement Division, STOP 0225-Room 2530, 1400 Independence Avenue SW, Washington, DC 20250-0225; telephone: (202) 720-4392; e-mail address: OFEB@usda.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Secretary of Agriculture is authorized by section 10314 of the OBBBA (Pub. L. 119-21) to conduct mandatory surveys of dairy product manufacturing cost data and related dairy product yield information for all products produced at a plant or plants required to report price information under the Dairy Products Mandatory Reporting Program (defined in section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b)). The AMS Dairy Program will collect, verify, analyze, and aggregate survey results and publish a biennial Manufacturing Cost and Product Yield Report (Biennial Report). In an effort to conduct mandatory manufacturing cost and product yield surveys and issue Biennial Reports that successfully meet the statutory requirement, this ANPR seeks input from impacted dairy stakeholders on data collection information and processes, cost calculation methodologies, verification procedures, and reporting needs.

USDA anticipates establishing a cost reporting program similar to previous voluntary industry manufacturing cost surveys. As such, USDA is planning to collect data on input expenses and utilize defined methodologies to calculate survey results. USDA also will establish a process for collecting and calculating product yield information. USDA will define a verification process for ensuring accuracy and consistency of input expenses and yield information collected from required reporters. After verifying and analyzing the collected data, USDA will issue a Biennial Report every 2 years providing cost and yield statistics for the commodities subject to price information reporting required by the Dairy Products Mandatory Reporting Program

(DPMRP). Currently, those products include butter, cheddar cheese (40-pound blocks), dry whey, and nonfat dry milk. All data published will be subject to DPMRP confidentiality metrics. Specifically, only the aggregated data of no fewer than three plants – with no one entity representing more than 60 percent of the volume of commodity surveyed – will be published. This would ensure the data of any one plant or entity cannot be identified.

## **II. Request for Public Comments**

To establish the manufacturing cost and product yield surveys, USDA must determine: what data to collect; the methodologies for collecting, analyzing, and verifying the data; and the information to be included in the legislatively required Biennial Report. As part of the development process, AMS seeks comments on the manufacturing cost and product yield surveys. All interested parties are encouraged to provide input during the comment period. Following this ANPR, AMS will publish a proposed rule for public comment. AMS also seeks comments from the public on the following:

1. Past voluntary industry manufacturing cost surveys collected various cost data after the plant acquired milk and dairy ingredients, but before the finished product left the manufacturer. Examples of some categories include labor (processing), non-labor (processing), utilities, product volume, dairy ingredient inputs, other ingredients, general and administrative, packaging, and return on investment. Are these appropriate categories or should these categories be adjusted? What specific data points should be included in each category?

2. Not all plants maintain detailed data that allows for the easy allocation of input expenses to various product lines and, therefore, must employ allocation rules to calculate costs. For unallocated input expenses, what methodology should be used for allocating such expenses to individual product categories?

3. What timeframe should USDA use to survey cost data (*e.g.*, the January – December calendar year, the most recent 12-month period, the individual plant specific fiscal year)? If the survey requests the submission of 12 months of data, how soon will plants be able to submit data? Do plants have the capability to submit the data on a monthly and annual basis, if requested?

4. OBBBA specifies that USDA should publish a Biennial Report but does not provide specifics on the data collection schedule. What factors should USDA consider when setting its data collection schedule? Comments are requested on the following data collection schedules: (1) collect two years of data every two years (*i.e.*, collect 2025 and 2026 data in the 2027 survey (results would be published in the 2028 Biennial Report); (2) collect data every year, and publish two years' worth of data in the Biennial Report (*i.e.*, collect 2025 data in a 2026 survey, collect 2026 data in a 2027 survey, and publish both the 2025 and 2026 data in the 2028 Biennial Report); or (3) only collect one year of data every other year (*i.e.*, collect 2026 data in a 2027 survey and publish it in a 2028 Biennial Report).

5. What data should USDA consider when determining product yields?

6. To ensure survey data are accurate and consistent, USDA will define a verification process in the proposed rule. As part of the review process, reporting entities will need to make records available upon request. How long are cost accounting records typically kept and what types of records could be used to provide cost and yield data?

### **III. Statutory and Executive Order Reviews**

Under Executive Order 12866, “Regulatory Planning and Review,” this action is not a “significant regulatory action.” Accordingly, AMS did not submit this ANPR to the Office of Management and Budget (OMB) for review under Executive Order 12866. Additionally, because this ANPR does not propose or impose any requirements – and instead seeks comments and suggestions for AMS to consider in a subsequent proposed

rule – the various statutes and Executive Orders that normally apply to rulemaking do not apply to this ANPR. Should AMS subsequently publish a proposed rule, AMS will address the statutes and Executive Orders applicable to that proposed rule. AMS welcomes comments and/or information that would help assess any of the following:

1. The potential impact of a rule on small entities pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*);
2. Potential impacts on Federal, State, or local Governments pursuant to the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531-1538);
3. Federalism implications pursuant to Executive Order 13132, “Federalism”;
4. Tribal implications pursuant to Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments”; or
5. Paperwork burdens pursuant to the Paperwork Reduction Act (44 U.S.C. 3501).

AMS will consider any comments received in response to this ANPR during the development of any subsequent proposed rulemaking.

**Erin Morris,**  
*Administrator,*  
*Agricultural Marketing Service.*

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