

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Milk in the Northeast and Other
Marketing Areas

AO Docket No. 23-J-0067;
AMS-DA-23-0031

REC'D - USDA/OALJ/HCO
2024 FEB 27 4:26 PM

Transcript: Instructions to Propose Corrections

These Instructions concern the Hearing on proposed amendments to pricing formulas in all 11 Federal Milk Marketing Orders (“FMMOs”), filed as Docket No. 23-J-0067; AMS-DA-23-0031, In re: Milk in the Northeast and Other Marketing Areas. Hearing transcripts for all 49 days of the FMMO Pricing Hearing were posted by February 21, 2024, to the USDA / Agricultural Marketing Service (“AMS”) hearing webpage at:

<https://www.ams.usda.gov/rules-regulations/moa/dairy/hearings/national-fmmo-pricing-hearing/transcripts>

The 30th day thereafter is March 22, 2024. Therefore, corrections to the transcript must be received by March 22, 2024. *See* 7 C.F.R. § 900.27(a).

The judge will review all timely submitted proposed transcript corrections and, after due consideration, will issue an order making any corrections to the transcript that the judge finds are warranted. Corrections are NOT appropriate if offered to improve witness testimony or to correct the witness’s error in testimony or exhibit. Briefs are the appropriate place for that. Obvious typographical errors need not be addressed. Wrong spellings of names and inaccurate descriptions or references to exhibits should be addressed. *See* 7 C.F.R. § 1.142(a); *see also* 7 C.F.R. § 900.10. To be considered, proposed transcript corrections will be submitted BOTH (1) by email to FMMOHearing@usda.gov AND (2) by filing with the USDA Hearing Clerk (see below).

1. *Email to* FMMOHearing@usda.gov

Go to the USDA / AMS webpage below and follow the instructions to send by **5:00 pm Eastern on March 22, 2024**, all proposed transcript corrections to FMMOHearing@usda.gov using the template for corrections included as an attachment to this Order.

AND

2. *File with the Hearing Clerk:*

The deadline to file proposed transcript corrections with the USDA Hearing Clerk is one-half-hour earlier, to meet the March 22, 2024 deadline (7 C.F.R. § 900.27). To file with the Hearing Clerk, proposed transcript corrections must be RECEIVED by the Hearing Clerk by

4:30 pm Eastern on March 22, 2024. Proposed transcript corrections can be filed by email or FAX with the Hearing Clerk’s Office as further directed below.

The USDA / AMS webpage at

<https://www.ams.usda.gov/rules-regulations/moa/dairy/hearings/national-fmmo-pricing-hearing>

shows the USDA Hearing Clerk’s correct contact information under Hearing Concluded, including email address. An error is present in the transcript for the email address for the Hearing Clerk.

Page	Line	Incorrect	Correct
JANUARY 30, 2024			
11615	20	SM.OHA.HearingClerk@USDA.gov	SM.OHA.HearingClerks@usda.gov

The most efficient way to file with the Hearing Clerk is to attach a document to an email and send to SM.OHA.HearingClerks@usda.gov, or to FAX the document to 1-844-325-6940 if you prefer. The Hearing Clerk’s information can also be found on the USDA / AMS webpage and on the last page of this order. If emailing or FAXing to the Hearing Clerk, submit once (NOT in quadruplicate). My suggestions follow, regarding practical methods of filing with the Hearing Clerk by email attaching “large” attachments; and other possibilities for delivery of “large” documents to the Hearing Clerk for filing.

Individuals or parties interested in filing transcript corrections may file anytime when ready until the times listed above on March 22, 2024.

If the email with attachment(s) is too “large” to send, you may want to attach multiple files and / or send multiple emails each with attachments, which the Hearing Clerk can assemble into one document if that is what you instruct. Some filers may compress their attachments using zip files or folders. Some filers may want to deliver a thumb drive to the Hearing Clerk in person or by courier or an express delivery service. If delivering thumb drive or hard copy filings to the Hearing Clerk’s Office, consider additional time needed for delivery to ensure RECEIPT by the deadline.

Some filers may use Box (<https://www.box.com/>). (The application “box” is NOT the same as the application Dropbox).

The Hearing Clerk, Ms. Caroline Hill, instructs that IF filers have a “box” account to share documents with the Hearing Clerk, they should use the Hearing Clerk’s individual email address, NOT sm.oha.HearingClerks@usda.gov, which thus far has not proved successful. Caroline Hill’s individual email address is caroline.hill@usda.gov.

If filers want to discuss delivery with the Hearing Clerk, they may use the Hearing Clerk’s contact information to ask to confer with Caroline Hill.

During the Hearing the Agricultural Market Service explained the usefulness of electronic versions of exhibits. For example, to ensure that evidence from websites would NOT change, AMS asked that Excel spreadsheets be submitted electronically and “password protected.” This online version provides greater accessibility to the public and is therefore better for 508 compliance.

The contact information for the Hearing Clerk is contained on the last page of this order. To meet deadlines, filings must be RECEIVED by the Hearing Clerk by 4:30 pm Eastern on the due date.

Copies of this order “Transcript: Instructions to Propose Corrections” shall be sent by the Hearing Clerk to each of the parties.

Issued at Washington, D.C.,
this 27th day of February 2024

**CHANNING
STROTHER** Digitally signed by
CHANNING STROTHER
Date: 2024.02.27 16:13:47
-05'00'

Channing D. Strother
Chief Administrative Law Judge

Digitally signed by Jill S Clifton
Date: 2024.02.27 16:19:33 -05'00'

Jill S. Clifton
Administrative Law Judge

Attached: template

Hearing Clerk
United States Department of Agriculture
Stop 9203, South Building, Room 1031-S
1400 Independence Ave SW
Washington, DC 20250-9203
Phone: 1-202-720-4443
Fax: 1-844-325-6940
sm.oha.HearingClerks@usda.gov

CERTIFICATE OF SERVICE

Eleven Federal Milk Marketing Orders

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 TRANSCRIPT: INSTRUCTIONS TO PROPOSE CORRECTIONS WITH ATTACHMENT and [WORD VERSION] ATTACHMENT FOR USE IN SUBMITTING TRANSCRIPT CORRECTIONS have been furnished and were served upon the following parties by electronic mail on February 28, 2024 by the following:

USDA (OGC)

Brian Hill, OGC

Brian.Hill1@usda.gov

Michelle McMurtray, OGC

Michelle.McMurtray@usda.gov

Donna Erwin, OGC

Donna.Erwin@usda.gov

Carla Wagner, OGC

Carla.Wagner@usda.gov

USDA (AMS) Dairy Programs

Dana H. Coale, Deputy Administrator

Dana.Coale@usda.gov

Erin Taylor, Director Order Formulation and Enforcement Division

Erin.Taylor@usda.gov

AMS - FMMO Hearing

FMMOHearing@usda.gov

Erick Metzger

General Manager

National All-Jersey, Inc.

6486 East Main Street

Reynoldsburg, OH 43068

E-mail: emetzger@usjersey.com

Counsel for National Milk Producers Federation

Stoel Rives LLP

101 S. Capitol Blvd., Suite 1900

Boise, ID 83702

Bradley R. Prowant

E-mail: bradley.prowant@stoel.com

Nicole C. Hancock

E-mail: nicole.hancock@stoel.com

Counsel for National All-Jersey, Inc.

John H. Vetne

E-mail: johnvetne@gmail.com

Counsel for International Dairy Foods Association

Steven J. Rosenbaum

Covington & Burling LLP

1201 Pennsylvania Avenue, NW

Washington, DC 20004

E-mail: srosenbaum@cov.com

Wendy M. Yoviene

Baker, Donelson, Berman, Caldwell,
& Berkowitz PC

901 K Street, NW, Suite 900

Washington, DC 20001

E-mail: wyoviene@bakerdonelson.com

Counsel for Milk Innovations Group

Davis Wright Tremaine LLP
920 Fifth Avenue, Suite 3300
Seattle, WA 98104
Charles M. English, Jr.
E-mail: chipenenglish@dwt.com
Ashley L. Vulin
E-mail: ashleyvulin@dwt.com
Grace Bulger
E-mail: gracebulger@dwt.com

American Farm Bureau Federation
600 Maryland Avenue SW, Suite 1000W
Washington, DC 20024
Sam Kieffer
E-mail: sk@fb.org
Roger Cryan
E-mail: rogerc@fb.org
Danny Munch
E-mail: dmunch@fb.org
Erin M. Anthony
E-mail: erin@fb.org
Mike Tomko
E-mail: miket@fb.org

Counsel for Select Milk Producers, Inc.

Ryan K. Miltner
The Miltner Law Firm, LLC
100 North Main Street
P.O. Box 477
New Knoxville, OH 45871
E-mail: ryan@miltnerlawfirm.com
ryan@miltner-reed.com

Lucas S. Sjostrom
E-mail: lucas@mnmilk.org

Mike Stranz
E-mail: mstranz@nfudc.org

E-mail: sleperjp@gmail.com

Marin Bozic
E-mail: marin@bozic.io

Respectfully Submitted,

Wanda Mosby, Legal Assistant
USDA/Office of Administrative Law Judges
Hearing Clerk's Office, Room 1031-S
1400 Independence Ave., SW
Washington, DC 20250-9203