

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

In re:

Milk in the Northeast and Other Marketing
Areas

7 CFR Parts 1000 *et seq.*

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

**CARMEL, INDIANA
AUGUST 2023**

**TESTIMONY OF ORGANIC VALLEY / CROPP COOPERATIVE, PART 1
REGARDING NATIONAL HEARING ON
FEDERAL MILK MARKETING ORDER PROPOSALS**

September 16, 2023

I. BACKGROUND

A. PERSONAL BACKGROUND

My name is Shawna Nelson I am the Executive Vice President of Membership for Organic Valley | CROPP Cooperative | (“OV|CROPP”). Our corporate address is One Organic Way, La Farge, WI 54639. In my role I oversee all cooperative membership engagement which includes personnel responsible for dairy hauling and scheduling, farmer resources, field operations, data analytics, milk management and farmer payroll as well as all producer related Federal Milk Marketing Order reports and filings.

Throughout my 19-year career at the co-op I have had the opportunity to interact with the entirety of the dairy industry supply chain – with dairy farmers from coast to coast, processors, retailers, consumers, trade groups, regulatory bodies, and all of the amazing contributors that make dairy work for the American people.

I graduated in 2005 from the University of Wisconsin Stevens Point with a Bachelor of Science in Business Administration. Residing in dairy-centric southwestern Wisconsin and being part of CROPP Cooperative’s growth and maturation has been my life’s work.

Joining me on the stand to assist in providing fulsome information on our operations are:

- Chris Dahl, Dairy Payroll and Handling Manager for OV|CROPP. Chris oversees our producer side FMMO reporting requirements; and,
- Adam Warthesen, Senior Director of Government and Industry Affairs for OV|CROPP.

B. COMPANY BACKGROUND

1. The founding of OV|CROPP, an organic-focused dairy cooperative.

Organic Valley | CROPP Cooperative’s mission is to create and operate a marketing cooperative that promotes regional farm diversity and economic stability by the means of organic agricultural methods and the sale of certified organic products.

The co-op was established in 1988 in southwestern Wisconsin with seven farmer-members. Today, with sales topping \$1.2 billion, the cooperative has nearly 1,600 farmer-members in 32 states. Of our 1,600 farmer members, approximately 98 percent would qualify as small businesses under the SBA. The average herd size of our 1,411 organic dairy farmer members is 78 milking cows and ranges from a dozen cows to our largest at around 1,000 cows. Focused predominately on organic dairy, the cooperative works with dairy processors nationwide to manufacture an array of Organic Valley branded products as well as commercial organic offerings within the bulk and ingredient categories.

The cooperative's organic dairy farmer owner members ship an aggregate of 1.5 billion pounds to the cooperative annually. Nearly all the milk processed and sold is supplied by OV|CROPP owner members with non-owner milk making up less than 2 percent of our total supply.

At its core the co-op governance is accomplished by the election of seven board members who serve staggered terms. The board is involved in overseeing the performance of the CEO as well as major decisions on top line expenditures, major capital projects, membership matters and pay price determinations.

We are active members of the Milk Innovation Group, International Dairy Food Association, Wisconsin Cheese Makers Association, American Dairy Product Institute, U.S. Dairy Export Council, the Organic Trade Association, and a collection of other trade groups. We are not members of the National Milk Producers Federation.

2. CROPP's Processing Facilities

The cooperative operates three dairy processing facilities in two states. We also have two subsidiaries; a distribution company called Organic Logistics; and a meat business called Organic Meat Company. Our dairy processing facilities are located in Chaseburg, Wisconsin; Cashton,

Wisconsin; and McMinnville, Oregon. These facilities process certified organic Class III and IV products. We utilize a network of co-manufacturers to process our Class I and Class II products.

The Chaseburg Creamery is a pool supply plant in Federal Order 30. Chaseburg serves two primary purposes: to standardize milk loads for further processing and butter production for brand as well as private label customers. Milk from nearly 400 OV|CROPP farmers in the Midwest is routed through the Chaseburg Creamery.

OV|CROPP's operations at the McMinnville Creamery in Federal Order 124 are similar to those at the Chaseburg Creamery *i.e.*, standardizing organic milk for additional processing at other plants. McMinnville also has organic powder production capabilities. In the past year, this operation received milk from around 80 organic dairy farmers in the Pacific Northwest. Currently this operation is not a pool plant.

OV|CROPP's Conversion and Labeling Facility in Cashton, Wisconsin carries out additional dairy processing and packaging, *i.e.*, converting organic cheese from blocks to consumer sizes and packaging. Cashton also has capabilities for ghee refinement and packaging.

Our co-op relies on an extensive network of up to 90 co-manufacturers across the U.S. to process milk into value-added products for retail and business to business sales opportunity. The cooperative employs 915 people with our largest workforce based in Wisconsin.

We strive to maintain a 98 percent organic utilization (processed and sold as organic) of all farm milk procured. This organic utilization rate is necessary to meet our farmer member pay price expectations. Organic sales and the premiums captured by our certified organic products is central to our business model. Our branded products are sold in all 50 states and 18 countries around the world. In our brand portfolio we offer dozens of different dairy products in nearly 137 SKUs.

With a mix of dairy products in all four FMMO classes and a broad geographic distribution of members we are extensively involved with the Federal Milk Marketing Orders. We have

producers in nine of the Federal Orders: 1, 5, 7, 30, 32, 33, 51, 124, and 126. Broken out by FMMO, Federal Orders 1 and 30 represent the largest portion of our supply base.

Our cooperative processes dairy products in nine orders: 1, 5, 7, 30, 32, 33, 51, 124, and 131. The only orders where we have neither producers nor processing are is Order 6 (Florida). For Class I we bottle brand and private label HTST, UHT and aseptic fluid milk at 12 plants across the U.S. These plants are in Federal Orders 1, 5, 30, 33, 51, 124.

We file monthly market administrator reports for both the Chaseburg Creamery and the McMinville Creamery and also file monthly 9(c) reports with the market administrators for each applicable FMMO.

3. Organic Dairy does not fit within the FMMOs.

The cooperative's longstanding frustration with federal milk pricing is that the FMMOs do not distinguish between organic milk and non-organic milk or provide equitable service to farmers, cooperatives, and processors in the business of certified organic milk.

Certified organic milk is a distinct commodity produced in accordance with federal law and subsequent National Organic Program regulations found at 7 C.F.R. § 205. Not only is this distinction affirmed in the authorizing law and standards, but organic dairy, along with other organic crops, fruits, and livestock, are allowed an exemption from 22 national promotion and research board assessments. This allowance, codified into law as part of Section 10004 of the Agricultural Act of 2014 (2014 Farm Bill¹), further acknowledges the unique market needs of organic agricultural products.

Examination of the dynamics of the organic milk market further sustains our position that organic milk does not appropriately fit the tenets or purpose of the Federal Orders, and the Orders should be amended to reflect that experience.

¹ <https://www.govinfo.gov/content/pkg/PLAW-113publ79/html/PLAW-113publ79.htm> (Pub. L. 113-79)

As is commonly known, organic milk maintains a higher indexing in Class I compared to non-organic dairy. This reality aligns with our experience. In contrast, non-organic milk is concentrated much more heavily (over 50%) in Class III. The table below compares the utilization of organic milk by class to total FMMO utilization.

	I	II	III	IV
Organic²	55%	20%	15%	10%
FMMO Total³	27%	9%	54%	10%

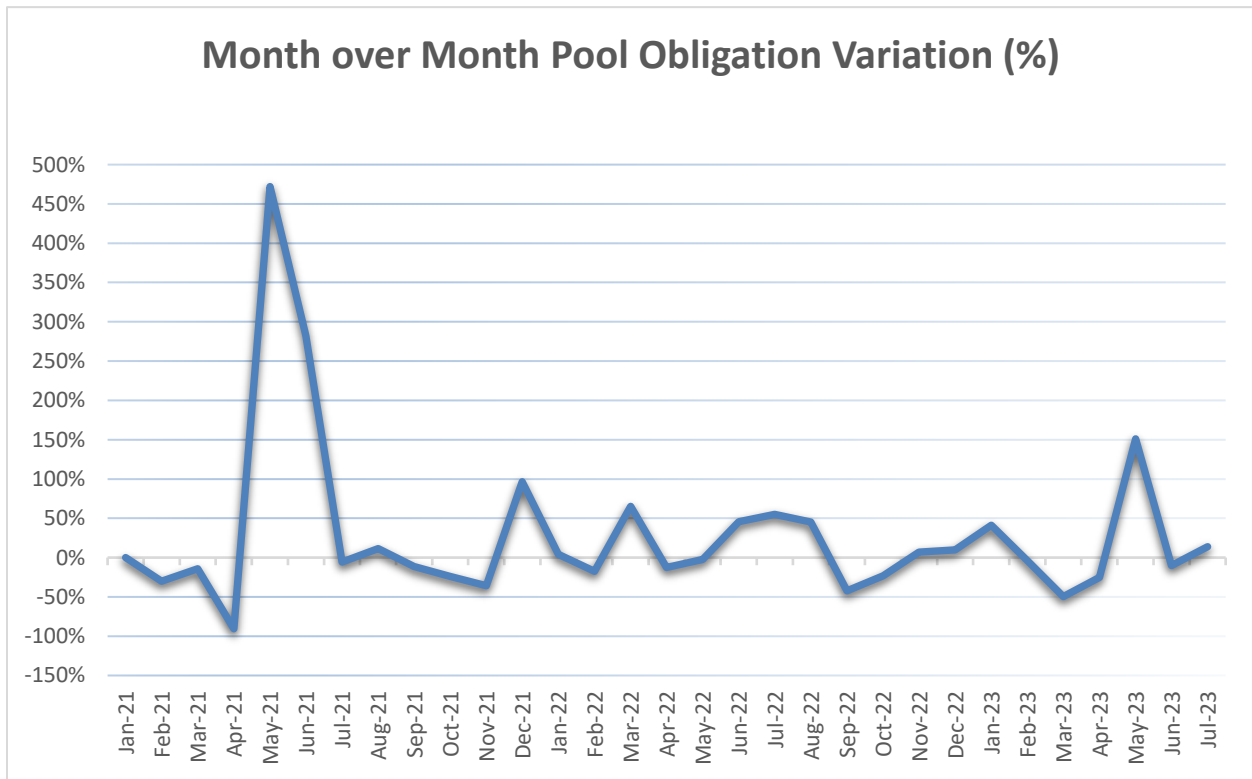
Organic milk is not substitutable with other milk pooled on the Federal Orders, and more importantly, its pricing has historically exceeded regulated minimum prices and is detached from classified pricing. At its simplest the organic farmer pay price is set annually, by the board of directors and co-op management, based on the ability of the co-op to meet sales targets, cost of goods targets, and the pay price needs of the farmer membership. The FMMO minimum class and producer uniform prices are not a factor in the pricing negotiations or contracts with our organic producers.

Yet the reality is the FMMO rules and requirements impact our farm gate organic milk price by burdening the cooperative and our organic dairy buyers with pool payments that ultimately go to non-organic producers. Without a doubt FMMO pooling obligations impact the organic farmer's annual pay price. Federal Order obligations take money from OV|CROPP's owner-members either in pay price, year-end patronage, or by reducing resources for the co-op (farmer owner's) operational investments. Proposals under consideration at this hearing that would increase Class I prices or widen the spread between the Class I and Class III/IV prices if adopted would undoubtedly exacerbate this problem.

² As estimated by MIG expert Sally Keefe.

³ Found at <https://www.ams.usda.gov/sites/default/files/media/2022AnnualPriceandPoolReport.pdf>

The challenge of FMMO pooling obligations on our cooperative are greater than just an unmitigable multi-million-dollar cost with no benefit to our members, but it also represents an extremely variable monthly cost that undermines business planning, cash flow and customer relations. The graph below illustrates the OV| CROPP’s pool obligation variability as a percent change over the past 30 months.



These incurred costs have no express relation to our actual business of procuring, processing, marketing, and selling organic dairy products.

It also does a disservice to the industry as a whole for organic dairy to be forced to participate in FMMOs. Organic dairy is one of the few growing Class I sectors, and has seen significant success over the years. Forcing organic dairy dollars into the pool both takes money from the farmers who undertook the expense and risk of maintaining organic certification, as well

as results in more money being paid to non-organic farmers whose milk is not able to be utilized in the organic system. That reality confuses market signals, whereby farmers with non-organic milk are being encouraged to produce more (through higher pool payments), while organic farmers (who are producing the milk in demand for fluid use) are deprived of dollars that are being channeled to the greater market. Letting FMMOs disrupt these market signals has created disorderly marketing.

II. SUPPORT FOR PROPOSALS

A. USDA should have accepted MIG's Proposal to partially exempt organic milk from pooling obligations.

USDA should reconsider its decision to exclude the Milk Innovation Group's proposal which would exempt organic milk from pooling requirements if organic handlers were paying above the Class I premium prices.

Our organic exemption proposal directly fit within USDA's set scope for the hearing. It has been stated previously by witnesses but bears repeating, the USDA Action Plan issued on June 1 stated: "...USDA is providing the opportunity for interested parties to submit additional proposals regarding potential amendments to the current pricing provisions applicable to all FMMOs." It did not specify in that Action Plan that only amendments directly impacting the uniform pricing formulas would be in scope, an assertion made only once a hearing was announced.

Further, even accepting USDA's post-hoc revision of the scope of the hearing, it cannot fairly consider the proposals at issue without also considering our proposed alternative of exempting organic milk. NMPF proposes raising Class I prices through a variety of proposals but including through raising the base Class I differential. Evidence in opposition to that proposal shows that, in fact, organic dairy should not be subject to that differential or any other aspect of minimum pricing.

Our analysis in overlaying OV|CROPP volumes and utilization against a number of the 21 proposals, included in the scope of the hearing, shows a worst-case scenario of a 40 percent increase in annual pooling obligations above our existing experience.

OV|CROPP urges USDA to amend the hearing notice and include the organic exemption proposal. The fundamental question of how organic dairy operates within the 11 Orders is right for a national hearing and is a pricing issue for thousands of organic farmers. We estimate that organic dairy typically contributes \$0.75 to \$0.90 per cwt into the FMMO pools. This increases the blend by about \$0.03 per cwt for non-organic producers. By increasing the conventional price, organic farmers' pool payments promote increased production of conventional milk, while that very milk cannot be used for organic dairy products. This is simply unfair.

B. Proposal 20: MIG's Base Class I Differential

1. Grade A:

Since its inception in 1988, OV|CROPP has never procured or received Grade B milk – certainly not for our Class I fluid milk products, nor for any of our other products, either. Within our Dairy Pool Policy Manual, “On-Farm Requirements” specifies that to qualify for membership an organic dairy producer must “(h)ave a Grade A Interstate Milk Shippers (IMS) license and meet Grade A standards with good sanitation and farm conditions.” The prospect of handling Grade B milk is not one we entertain at the cooperative for any of the milk we process into an array of dairy products.

Our experience in the dairy market is that Grade B is an extremely small segment of milk brought to market. As evidenced by the state of Wisconsin, considered a powerhouse in dairy processing and cheese production, as of August 2023 the state had only 493 Grade B licensed dairy

farms (producing less than 1% of the milk) and 5,360 Grade A licensed dairy farms.⁴ In 2022 the state produced over 31 billion lbs. of milk. A tiny fraction of that volume is produced by Grade B farms in Wisconsin, many of which are very small operations that serve local communities.

In our experience the \$0.40 for Grade A in the base Class I differential does not attract producers to service the fluid market, nor is it necessary to incentivize production of milk that meets the Grade A standard. Similar to the vast majority of dairy cooperatives and processors in Wisconsin and nationwide, Grade A is used across Classes I,II, III, and IV for all dairy product manufacturing purposes.

As a cooperative that offers sale to commercial dairy buyers who do additional processing in Class II and Class III, I can affirm that it is standard expectation and typically within contractual clauses the milk will be Grade A. There is no longer any reason for any Grade A compensation to be built into the minimum Class I differential.

2. Balancing:

OV|CROPP understands that \$0.60 per hundredweight of the Class I differential is related to balancing costs. Building this into the regulated minimum prices makes it a mandatory expense that is neither practical nor relevant in today's organic dairy market.

Because organic dairy requires strict segregation and adherence to the National Organic Program standards, companies involved in the commerce of organic dairy are under immense pressure to achieve nearly perfect utilization of organic milk. These companies, including us, assume almost all balancing functions (and accompanying expenses) to ensure the milk and dairy products maintain certified organic status and can be marketed customers as certified organic. As stated above, this is critical to paying organic farm gate prices to attract supply patrons.

⁴https://www.nass.usda.gov/Statistics_by_State/Wisconsin/Publications/Dairy/2023/WI-DairyHerd-08-23.pdf

From a placement position, organic farm milk and/or processed products from our co-op or any other organic business cannot seek placement in non-organic markets for an extended period, as that would be financially unsustainable and would lead to economic ruin.

Conversely being short on organic milk creates extraordinary risk with our customers that carry organic dairy products. Organic dairies are unable to ramp up or down production in a manner similar to the conventional industry. We cannot “call” milk under FMMO provisions or otherwise use the FMMO system to generate more milk supplies. The organic regulations place strict requirements on the origin of livestock and feedstuffs allowed as well as the necessary management to produce organic milk, meaning there is no opportunity to substitute conventional milk. Additionally, the long lead time (three years) to convert a farm from conventional to organic means that the market will be very slow to respond to economic signals calling for more organic milk.

This forces us to incur balancing responsibilities, which for OV| CROPP are done through three means:

On incoming milk, we institute a Dairy Supply Management Program to balance the Cooperative’s dairy supply with demand in a way that will most effectively support a stable member pay price, protect members from unanticipated changes in demand, provide opportunities for growth in Member supply, and safeguard the stability of the Cooperative.

All members must adhere to the Dairy Supply Management Program and commit to a yearly Active Base volume of milk that they also commit to market with the cooperative. In exchange, CROPP pays its suppliers at rates significantly above the federal order minimum and with premiums to compensate for this commitment. Quotas on Active Base will be used at all times to manage supply with targeted precision. A member whose actual production exceeds the established quota on Active Base is at all times subject to a nearly 70 percent financial deduction on milk over base. It should be noted that even under this program, the organic dairy farmer overall

will receive a price above the FMMO minimum regulated prices. All our members agree to this voluntarily as part of being a member of OV|CROPP. For the dairy farmer member-owners of OV|CROPP this represents a balancing cost incurred by farmers who are intently focused on milk production management.

Second, to maximize organic premium opportunity and manage the flow of organic farm milk, OV|CROPP bears all the responsibility in determining what products are needed for organic market buyers and what other products might be produced and held in longer term inventory to absorb supply spikes. The balancing outlet mechanisms used in the conventional market are simply not available to organic producers. It is not justifiable for this \$0.60 per hundredweight to remain in the base Class I differential.

Third, OV|CROPP has invested or secured working relationships with processing facilities in every class and in geographically diverse areas. This gives OV|CROPP options to manage milk supplies between classes when there is surplus milk from what OV|CROPP needs for its fluid milk facilities. Additionally, given the significant cost of producing organic milk, OV|CROPP has had to invest in processing to ensure that as much of that milk as possible is able to be processed and sold as organic milk. As noted above, 98% of the milk produced by OV|CROPP members is sold as organic, a recovery of costs made possible in part through OV|CROPP's own investment in manufacturing.

3. Incentive:

For OV|CROPP's organic fluid milk business, the justification for the \$0.60 per hundredweight to incentivize producers to service the Class I market has never resonated or been a practical matter for us or any of our organic colleagues. Gaining sufficient supplies of organic milk for fluid use is not predicated on some incentive element in the base Class I differential. Really our ability to procure sufficient milk supplies has nothing to do with FMMOs.

The organic premium offered to current organic dairy farmers and farmers interested in joining the organic marketplace is the primary motivator. We see very little evidence that the incentive in the Class I differential is necessary today. Like the balancing and Grade A portion of the Class I differential, this “incentive” piece is misaligned with the market realities of today. The only way for that \$0.60 to incentivize service of the organic Class I market is to allow entities like ours to redirect those funds towards actually growing the Class I market – in particular, by redirecting back to the very farmers that service Class I bottlers.

III. CONCLUSION

It is said that FMMOs is a program for dairy farmers – however, it is certainly not a program for organic dairy farmers. OV|CROPP provides this testimony not because we find value in FMMOs, but to advocate for a collection of farmers and a cooperative business that has built a model to bring farmers better returns by bringing the value-added organic milk they produce to the marketplace. Despite being shackled to a federal pricing system that functions for all practical purposes as a tax on our farmer-owned business, we’ve been able to innovate and grow over the last decade.

Even with that acknowledgement the future holds uncertainty. And as USDA considers changes to the FMMOs we are at greater risk than ever before in maintaining a sufficient pay price for organic dairy farmers. The landscape we navigate is fraught with challenges: increased costs on the farm, spurious food labeling claims and according to research data⁵ inflationary pressure and price sensitivity in retail markets that have shown even a slight 1 percent increase in retail price for specialty milks like organic has as much as a 1.44 percent decrease in volume purchased.

The regulatory environment, foisted upon us, with many of the proposals for this national hearing would only make matters worse and saddle organic dairy producers with greater costs and

⁵ <https://www.idfa.org/resources/a-deeper-look-at-milk-and-competing-beverage-price-elasticities>

offer no recourse. Price increases to organic customers or consumers cannot be the answer. We hope a simpler more equitable outcome can be achieved that celebrates innovation and choice for farmers, businesses, and consumers.

We look forward to answering any questions.

DATED this 5th day of January, 2024

By:

A handwritten signature in black ink, appearing to read "Shawna Nelson". The signature is fluid and cursive, with a large initial 'S' and 'N'.

Shawna Nelson
Executive Vice President of Membership
Organic Valley | CROPP Cooperative