



Summary of Feedback and Response

Agricultural Production Standard Draft Dairy Amendment 1.0.0

June 15, 2021
Fair Trade USA



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Introduction

Fair Trade USA has long been a driver of sustainable livelihoods, social responsibility, and community development through the application of robust and credible social and economic standards that support farms, fisheries, and factories in a transition towards improved social welfare and environmental sustainability. Since 1998, fair trade producers in more than 45 countries have earned over \$400 million in Community Development Funds, which they have used to address their communities' greatest needs: often clean water, education, healthcare, and environmental protection. A cornerstone to this success has been Fair Trade USA's Agricultural Production Standard (APS) for crop production, which was designed to be applied to a variety of crops and farm settings.

The APS, published in 2017, was developed through a multi-year, rigorous, and transparent review and revision process. The foundation of the APS is based on extensive collaboration and consultation with a diverse array of stakeholders, including producer groups representing both smallholders and large growers, farmworkers, labor experts, NGOs, and fair trade movement organizations, buyers, and brands.

Building upon the strong foundation of the APS, Fair Trade USA began an exploration of the United States dairy sector in early 2019 with the goal of determining how a fair trade certification program could be most relevant, impactful, and valuable. Coming out of that exploration, Fair Trade USA saw a clear opportunity to complement existing initiatives within and surrounding the dairy industry and bring positive impact to the sector by applying our unique model of standards, premium, and producer services.

Rather than create a new standard, Fair Trade USA decided to pilot the APS and certification process in the dairy context, with the needed definitions and clarification to make it interpretable and auditable in this sector. This slightly modified version of the APS (Draft Dairy Amendment) was released for public consultation from July to September 2020 with an associated public comment form aimed at soliciting diverse feedback on key issue areas. Additionally, Fair Trade USA held interviews with approximately 40 experts and stakeholders holding various roles throughout the dairy industry and supply chain, collected comments directly from dairy producers and workers through workshops and phone calls, and gathered a number of learnings from the dairies, cooperatives, brands, auditors, and workers involved in the initial pilot certifications in dairy.

During this pilot period, Fair Trade USA also solicited feedback from other companies and organizations operating in the United States, including producer groups, growers, labor experts, NGOs, buyers, and brands, as well as Fair Trade USA staff and field staff who support the implementation of the APS.

Together these stakeholders submitted over 800 individual comments which—in combination with the learnings from our initial pilot certifications in dairy—helped Fair Trade USA refine the APS to develop version 1.2.0, as well as identify a need for both geographically and industry specific APS interpretations and clarifications. Therefore, as a supplement to the updated APS 1.2.0, we are also publishing a United States Amendment to provide additional guidance on how APS requirements apply to organizations and producers operating in the United States' complex legal landscape, as well as further clarifications for those in the dairy industry.

We consider ourselves lucky to have received so much feedback from this broad group of stakeholders and we could not be more thankful for the time and brainpower our partners and pilot participants spent to help us adapt our standard and build this new dairy program. **This document contains a summary of the key themes from the feedback we received on the APS Draft Dairy Amendment as well as Fair Trade USA's responses to suggestions made.** We also received many detailed comments not captured in these key themes and we have made many small edits not reflected in this summary in order to create an even more effective and clear standard.



High-Level Feedback for Fair Trade USA

In addition to comments targeted towards specific content in the APS, Fair Trade USA solicited and received more general feedback on implementing the APS in the dairy context, as well as the future strategy of the Fair Trade USA dairy program. This section focuses on the key themes coming out of this high-level feedback, and how Fair Trade USA plans to use these comments to continue refining and improving our dairy program.

Dairy Value Proposition & Program Focus

During the public consultation period, Fair Trade USA asked what our thought partners in the dairy industry found most valuable about the Fair Trade program and what they felt the dairy program should focus on to strengthen our impact and value proposition. Among other things, we heard that the Fair Trade dairy program was most valuable because of the additional resources it provides to support workplace improvements, the training and resources it facilitates for farmers and workers, its potential to attract and retain talent on farms, its potential to improve employee engagement and communication, the marketplace recognition it gives to farms for good practices, the rigorous third-party certification, its potential to improve supply chain relationships, and its ability to change the perception of dairy work. In terms of the dairy industry challenges that the Fair Trade dairy program should focus on, these dairy thought partners felt that some of the top things to address are fair wages and treatment of workers, workplace safety, environmental stewardship and climate change, animal welfare, employee recruitment and retention, positive workplace culture and communication, volatile milk prices, employee engagement, immigration, and employee housing.

Overall, the dairy workers that we spoke to reported feeling happy and satisfied with their current work and living situation at their respective farms. Among the areas for improvement that workers did highlight for their workplaces, the most important seemed to be addressing workplace safety by ensuring all equipment is in good condition and that workers have sufficient training, improving the quality of medical insurance, adjusting salary levels as needed to match rising costs of living, ensuring that promotions, raises and other benefits are administered fairly and transparently, and increasing the quality of communication and feedback between workers and supervisors. Long-term, these workers mentioned that they aspire to see meaningful career growth that can afford them opportunity to progress life goals.

Fair Trade USA Response: We are extremely grateful for the strategic and programmatic feedback that these stakeholders were able to provide. Fair Trade USA was pleased to hear that many of the topics that came up in these conversations are impacts we are actively working to drive and issue areas we are currently focusing on, which further confirms that Fair Trade Certification is an important complement to the existing initiatives within and surrounding the dairy industry. Over the next few years, Fair Trade USA will use these comments to continue to develop and refine our dairy program to ensure we are meeting the needs of this industry.

Compliance Support Fund

In developing the Fair Trade USA dairy program, we saw a need and the opportunity to ensure that the Fair Trade Premium serves to support farmers, workers, and their communities not only as a Community Development Fund, but also through funding of activities related more directly to compliance with the APS at the workplace. Therefore, Fair Trade USA is piloting a new approach to Premium use by creating a Compliance Support Fund that provides aid to dairy program participants who will be instrumental in developing and refining this novel program. The intent of the Compliance Support Fund is to support the



implementation of one-time changes and initial investments needed to achieve compliance against the APS and support the intended outcomes of the Fair Trade USA dairy program.

Overall, the feedback we received on the Compliance Support Fund was overwhelmingly positive. Many dairy stakeholders, including Certificate Holders, owners, trade associations, academics, and experts emphasized that the Compliance Support Fund is a critical component of the dairy program, given the investment, time commitment, and risk owners take on to participate in the Fair Trade program. Additionally, these stakeholders noted that a number of workplace improvements will require investments in assets owned by dairies, and having a fund that goes directly to owners can help to make these improvements happen more efficiently and quickly. Many also highlighted that the Compliance Support Fund is one of the more unique and valuable aspects of the Fair Trade dairy program.

These same stakeholders also stressed the importance of making the Compliance Support Fund a permanent component of the program, since the costs of maintaining compliance with the standard and continuing to improve as a business and a workplace will be continuous and ongoing.

A few dairy owners and Certificate Holders felt that the amount of Premium diverted to the Compliance Support Fund could be raised, the spending decisions for all Premium could be more collaborative between owners and workers, and that a more appropriate name for the fund would be the Farm Improvement Fund.

Fair Trade USA Response: Fair Trade USA is continuing to pilot and collect findings on the Compliance Support Fund in our dairy program through 2021. However, the feedback we have received so far has made it clear that maintaining a portion of Premium for the direct support of on-farm investments into the future will be critical for program success. Therefore, Fair Trade USA plans to use the remainder of this pilot period to determine the best way of structuring and implementing this concept long-term. Once the pilot implementation of the Compliance Support Fund is complete, we will be evaluating the Fund more comprehensively. This evaluation will be focused on how the Compliance Support Fund might need to be adapted and/or restructured to be more efficient, effective, and impactful, and whether and how the Fund is extended beyond the dairy program. At minimum, our evaluation will consider whether the amount of Premium diverted for these purposes was the right amount; whether the spending rules and processes are appropriate and achieving impact for both farmers and workers; whether the Fund management, tracking, and auditing could be improved; whether the concept is being presented and communicated effectively; and whether this concept should be expanded beyond dairy.

Dairy Environmental Approach

Due to significant differences between the environmental issues and approaches to environmental stewardship in food crop production as compared to dairies, the environmental requirements of the APS are not being applied to dairies as the program is piloted. Specifically, criteria in Module 4 related to biodiversity, ecosystem function, and sustainable production are not being audited.

During our consultation period, Fair Trade USA inquired about the environmental issues of greatest and least importance to those in, or very knowledgeable about, the dairy industry in order to begin the development of an environmental approach for dairy. The environmental topics that came up most frequently as priority topics to address in the dairy program were water quality/pollution, manure management, climate change (GHG emissions and carbon storage), nutrient management, soil health, and water conservation. Environmental topics that some stakeholders suggested Fair Trade USA avoid were GMOs, air pollution, and all environmental topics for mid to large dairies. Additionally, we heard that, given the level of environmental regulation that dairies in the United States must contend with already, most are



wary about the potential environmental requirements that Fair Trade USA might impose and would like to be more actively involved in the development of the module and its requirements.

Fair Trade USA Response: Based on this initial feedback, Fair Trade USA has begun to scope out a high-level proposed environmental approach and timeline for the dairy program that allows sufficient time for collaboration with key thought partners. As such, we will be aligning the timeline for the development of the dairy environmental approach with the next APS major revision expected to begin at the end of 2021 and to finish by mid-2023. Our hope is that this would allow for additional space and time to conduct further consultation on a full draft environmental approach for dairy, including getting greater dairy producer and Certificate Holder involvement in the development and refinement of the requirements.

Alignment with United States Law

Many dairy stakeholders, including Certificate Holders, owners, trade associations, academics, and experts emphasized the importance of aligning the APS with United States law, where possible. They also noted that it would be useful to have some sort of document that clarifies how the APS interacts and overlaps with United States regulation, and provides more implementation guidance and examples that are relevant to the United States' context.

Fair Trade USA Response: We understand that implementing the APS in the United States would be more streamlined if requirements were aligned with United States regulation and if regionally-specific guidance were available. Therefore, as a supplement to the updated APS 1.2.0 we are also publishing a United States Amendment to provide additional guidance on how APS requirements apply to organizations and producers operating in the United States' complex legal landscape, as well as further clarifications for those in the dairy industry. This amendment aligns with and/or provides guidance relevant to United States law for all of the key topics raised by stakeholders. In addition to the United States Amendment, Fair Trade USA has a [frequently asked questions document for those implementing the APS in the United States](#) and plans to develop additional guidance materials for this geography in the coming months.

Roles & Responsibilities

A dairy owner and dairy trade association felt that the roles and responsibilities of individuals within the Fair Trade program could be more clearly defined. Additionally, several dairy owners expressed that they are unsure about their role in the Fair Trade program, including whether they are considered Premium Participants, which requirements are their responsibility, and how they benefit from the program.

Fair Trade USA Response: Where necessary, we clarified language throughout the APS to ensure the individual responsible is more clearly identified, and we added references with hyperlinks to supporting policies and guidance documents that house important supplementary information. We also expanded on several definitions of terms used in the APS, including the definition for farm manager, so that it is clear where farm owners fall within these terms.

Introduction to the APS

Farm Size

Comments on the application of the APS farm size definitions in dairy were limited and mixed. One brand felt that the best indicator of a dairy's size and thus their capacity to implement requirements—particularly



those necessitating written documentation—as well as the level and types of risks they might be subject to, is the herd size. This brand noted that using herd size as a proxy for farm size would eliminate cases where farm size might be driven by the size of an associated crop operation rather than the dairy itself. On the other hand, one Certificate Holder and several dairy owners felt that the number of permanent employees would be a better measure of farm size in dairy (with less emphasis on the number of temporary workers). This Certificate Holder suggested that the classifications should have a higher threshold of permanent workers and be modified as follows: Small Farm ≤10 permanent workers, Mid-sized Farm 11-40 permanent workers, and Large Farm all others. However, one dairy trade association thought that the farm size definitions made sense, given that the herd size on a dairy farm is generally directly correlated to the number of workers.

Fair Trade USA Response: Since most of the dairy farms that went through the pilot audits had minimal complaints about the farm size definitions and felt their operations were categorized correctly, and given the mixed opinions of other stakeholders, Fair Trade USA has decided to maintain the current farm size definitions for the time being. However, the comments related to the proportion of temporary and permanent workers included in the farm size definitions are interesting ones that we would like to explore more. We have received similar comments from individuals in other commodities and regions, thus we would like to consider this in a more comprehensive manner during the major revision of the APS that will begin at the end of 2021.

Scope

Some dairies grow all or a portion of the crops that they feed to their animals, other dairies purchase this feed and do not grow crops for this purpose. During the public comment period, Fair Trade USA asked how workers involved in the production of crops for the purpose of animal feed should be considered when determining the scope of the Fair Trade Certificate. One dairy owner, one environmental expert, one auditor, one Conformity Assessment Body, and several dairy experts and academics suggested that crop workers on dairies be included in the Certificate scope since, as for many operations the crop work and dairy work are very intermingled, with a number of workers splitting their time throughout the year across both areas of the farm. In addition, it was noted that the exclusion of crop workers on dairies could cause unnecessary tension and conflict amongst workers.

Fair Trade USA Response: We agree that, where crop workers work with and frequently interact with dairy workers, all workers should be included in the Certificate scope. Therefore, we will be adding further details to our policy, [Requirements for Certificate Scope Under the APS](#) and guidance document, [Guidance for Determining Scope Under the APS](#) to explain when crop workers must be included in the Certificate scope, and when a crop production site is sufficiently separate that crop workers do not need to be included.

Module 1—Empowerment

Fair Trade Premium Participants

Currently, the manager of each Small Farm in the scope of the Certificate must be a Premium Participant, Mid-sized Farm managers may be Premium Participants, and Large Farm managers cannot be Premium Participants. Additionally, middle and senior management may never be included as Premium Participants, but in some cases, they could benefit from a Premium project if a project is targeted at the broader community of which these individuals are also members. The intent behind the exclusion of middle and



senior management from the Premium Participants is to ensure that workers' Premium spending choices are not affected by power hierarchies.

Several dairy owners and academics expressed the desire for managers and farmers from all operation sizes to be Premium Participants and members of the Fair Trade Committee (FTC). They felt that disallowing some of these groups from participating only furthers the divide between management and workers. These individuals see the FTC and Premium spending decision-making as an excellent opportunity for manager-worker collaboration and relationship building, as well as a development opportunity for both parties.

Fair Trade USA Response: As mentioned previously, dairies are currently piloting a new approach to Premium use, which we are calling a Compliance Support Fund. Implementation of the Compliance Support Fund directs one-third of the Fair Trade Premium to Certificate Holders and dairy owners and operators. The remaining two-thirds will continue to be managed as a Community Development Fund through the traditional Fair Trade processes by the Fair Trade Committee. Given we are piloting this Compliance Support Fund that increases manager and farm owner involvement in Premium spending for all farm sizes, we will not be changing our general Premium Participant rules at this time. However, the desire for collaboration in Premium spending and decision-making between these different groups will be considered and alternative options will be explored during our evaluation of the Compliance Support Fund. We do agree that, in some cases, having someone from management participate in the FTC meetings can be a good opportunity for collaboration and relationship building. As such, we have added clarification to criterion 1.1.2.d to note that the FTC can invite a non-voting observer from farm management, in addition to the observer from the Certificate Holder, if they desire to. Our hope is that this will provide an additional opportunity for collaboration, while also protecting the FTC's ability to choose not to involve management should they feel it would prevent open and honest dialogue amongst members.

Several stakeholders noted that it is not always clear when optional Premium Participants should and should not be included, and expressed a desire for more guidance on determining this.

Fair Trade USA Response: Due to the diversity of supply chain contexts and operation structures, we are unable to provide guidance on every possible situation where optional Premium Participants should and should not be included. As such, it is ultimately the responsibility of the Certificate Holder to decide whether to include additional people in the group of Fair Trade Premium Participants based on their understanding of the various pros and cons, which we clarified in the APS. That said, the case study examples in our document, [Guide to Identifying the Fair Trade Premium Participants under the APS](#) could help Certificate Holders better understand the different considerations that go into this decision, such as the amount of Premium received in a year.

Functioning and Governance of the Fair Trade Committee

Several stakeholders expressed confusion around what is meant by proportional representation of diverse groups within the Fair Trade Premium Participants on the Fair Trade Committee (FTC). One individual also noted that, depending on the size of the workforce, strict proportionality could mean that there are no minority groups represented on the FTC.

Fair Trade USA Response: We agree that unclear terminology can be confusing, and appreciate stakeholders pointing out these terms. In the APS we have incorporated additional clarifying language and definitions to improve understanding throughout the standard, such as increased explanation on proportional representation, "diverse groups," and "representative sample."



Needs Assessment

The Needs Assessment is a substantial undertaking, and several growers felt that there needs to be a faster and more efficient way to perform the assessment, particularly where harvest seasons are very short and there are a large number of temporary workers.

Fair Trade USA Response: We are currently creating and field testing a number of new tools and resources to accompany the APS that will support the design, implementation, and evaluation of the Needs Assessment. We expect that these tools and resources will substantially improve the efficiency of the Needs Assessment overall. Additionally, in the APS criterion 1.2.1.b, we clarified when and how the Needs Assessment should be updated, to ensure the level of effort and frequency of these updates is clear.

Module 2—Fundamental Rights at Work

General

The requirements in Module 2 outline the fundamental rights that form the basis for ensuring the wellbeing of small producers and workers, and managing human rights risks faced by companies and buyers in their supply chains.

One dairy trade association mentioned that Module 2 contains a number of compliance criteria that are already addressed by state and federal laws and regulations, implying a lack of trust that dairy farms comply with the law. They also felt that legal compliance is best handled by the appropriate legal and regulatory agencies, rather than Fair Trade USA.

Fair Trade USA Response: Fair Trade USA operates in a broad range of jurisdictions each with complex and changing laws and regulations. Although many of the fundamental rights highlighted in Module 2 might be separately addressed through regulations in some of these jurisdictions, their inclusion in the APS helps create consistency across many different geographies as well as reduce risk through additional verification. We clarified this in the APS as well.

Children and Young Workers

One dairy trade association representative mentioned that heavily restricting children of farmers from helping on the farm can be a sensitive subject for dairy owners, particularly if they are following all applicable legal requirements already. Another dairy trade association representative argued that requiring children of farmers to be under the supervision of an adult at all times is unreasonable, given that these children typically live on the farm. Relatedly, several dairy owners noted that the definition of hazardous work for young workers and children is too general to be useful for a dairy and, as written, precludes them from employing young workers and allowing their children to help on the dairy at all. Several academics suggested that the requirements around young workers and children of dairy owners move away from complete restriction and towards hazard and awareness training for these groups, as there is a cultural need and value for youth to participate in dairy work. For example, there are a number of youth educational programs that are common in the United States dairy industry (e.g., 4-H, FFA, internships, and breed associations) that would not be allowed with the current requirements. One dairy owner expressed that it is important for them to be able to foster youths' desire to learn about animal care and husbandry in order to attract and train young people for a career in farming.

Fair Trade USA Response: The intent of APS criterion 2.2.2.b is not to preclude children from helping their parents on their own farm, but to ensure that these children are doing so in a way that



does not jeopardize their education or physical development. However, we understand the definition of hazardous work on a dairy farm was so broad that it did just that, preclude children (and young workers) from participating in any type of work on the dairy farm. Therefore, in the United States Amendment, we have updated the description of activities that are considered hazardous for young workers and children of farmers (listed in 2.2.2.a, 2.2.2.b) to align with United States regulation, including around exemptions that exist for student-learners enrolled in vocational agricultural programs and young workers that hold certificates of completion of training under a 4-H program. Additionally, in criterion 2.2.2.b of the APS we also clarified what adult supervision means in this context, and in criterion 2.2.1.a we clarified where there are special circumstances under which light part time work below the minimum age is allowed, with specific protections.

Module 3—Wages, Working Conditions, and Access to Services

Documentation and Contracts

Several stakeholders, including brand partners, academics, dairy owners, and dairy Certificate Holders pointed out that the legally binding employment contracts specified in 3.1.1.c can be confusing to implement in the United States, where “at-will” employment situations are typical. Several stakeholders noted that legally binding contracts in the United States are often associated with circumstances that go against “at-will” employment. One academic mentioned that ensuring comprehension and understanding of these contracts is paramount and recommended that we consider adding in other forms of contract consent, including verbal consent and the use of videos to communicate contract details in a different way.

Fair Trade USA Response: We appreciate the stakeholders who highlighted how the United States’ employment terms can make legally binding employment contracts more complex to implement in this region. In response, we have updated the language in criterion 3.1.1.c in the APS and in the United States Amendment to clarify the types of documents that can be used to comply with this requirement, as well as how the criterion relates to “at-will” employment. Additionally, we added further clarification and examples in the APS regarding how work agreements or contracts can be made accessible and clearly communicated to workers.

One producer noted that it is not always possible, despite the employer’s best efforts, to provide an alternate job at the same pay/benefits when a worker is experiencing a health issue. Therefore, putting this sort of language into a legally binding contract makes some employers uncomfortable.

Fair Trade USA Response: We agree that there may be instances where it is impossible for an employer to provide an alternate job at the exact same pay and benefits when a worker is experiencing health issues. Therefore, in criterion 3.1.1.c of the APS we have clarified that the employment contract/agreement must at least include the employee’s right to reasonable accommodations in the event of a health issue. In addition, we have added further guidance in criterion 3.2.1.f of the APS to note what should be done in cases where finding an equivalent alternate job is not possible, despite an employer’s best efforts.

Labor Contractors

Several producers mentioned that labor contractors are very necessary for seasonal labor needs, but communication with these labor contractors can be difficult when there is not a strong relationship established. It can be challenging for producers to communicate the APS requirements with labor contractors, as well as ensure practices are being followed and communicated to workers when these are external entities that they have little control over.



Fair Trade USA Response: We recognize that communicating APS requirements to labor contractors and ensuring they are met can be difficult when labor contractors are independent and external entities. We also acknowledge that for some operations, it would be very hard to eliminate the use of labor contractors completely. Given the complexity and importance of this issue, we will be taking some additional time to investigate this challenge and possible solutions in the major revision of the APS that will begin at the end of 2021.

Workplace Safety

Several dairy trade associations, several academics, and a few dairy owners mentioned that the definition of hazardous activity for dairies is very general and could apply to most activities performed on the dairy. Several dairy health and safety experts and one brand partner suggested including more specific guidance around dairy safety risks, such as animal handling, zoonotic illnesses, needle sticks, manure and freshwater lagoons, repetitive motion and musculoskeletal issues, and heavy machinery risks.

Fair Trade USA Response: We agree that the definition of hazardous activity on a dairy, listed in the Draft Dairy Amendment, was too broad to be practicable. We also recognize that the level and type of risk associated with common hazards on a dairy is highly dependent on the characteristics and practices of that particular operation. As such, in the United States Amendment we have updated the guidance on hazardous activities on dairies to focus on the most common potential hazards, as identified by [OSHA](#), and the operator's evaluation and prioritization of these hazards. We have also incorporated more dairy-relevant safety guidance throughout the APS, based on the stakeholder feedback we received.

One dairy health and safety expert suggested using a few different approaches to safety that go beyond training. For example, having a robust safety onboarding/orientation, monthly or bi-weekly tailgate talks, developing a farm safety culture by getting management invested and modeling the right behaviors, using the hierarchy of controls, and conducting regular self-directed farm safety walkthroughs.

Additionally, dairy workers that we interviewed had several suggestions for specific improvements to their workplace conditions which were to (1) increase workplace safety and ensure that farm spaces are orderly, (2) increase the number of portable bathrooms, (3) improve the milking area, and (4) improve and maintain the conditions of workplace equipment and infrastructure in general.

Fair Trade USA Response: We greatly appreciate these suggestions and are pleased to see that the APS already covers many of the topics raised by workers. We are also excited about these additional approaches to safety that were proposed by stakeholders. Throughout the APS we have included this information as implementation examples and recommendations. During the major revision of the APS set to begin at the end of 2021, we will consider how to incorporate these ideas into the APS and its requirements in a more comprehensive manner.

One dairy trade association, several academics, and a dairy owner mentioned that the first aid requirements need to be clarified, particularly for places where first responders are readily available and can be onsite within minutes. Additionally, they recommended avoiding vague terms like “adequate” and “industry norms” in favor of being more specific about what is expected (e.g., a well-stocked first aid kit). Similarly, they suggested not referring to PPE in terms of what the “owner would use themselves” as owners may take on risks that workers should not be emulating.

Fair Trade USA Response: In the APS criterion 3.2.1.a, we have clarified that the type of first aid equipment and level of training should be commensurate with the workplace circumstances, including the availability of public emergency responders in the region. Additionally, we reviewed



the APS for the safety terms noted in stakeholder comments and revised the language to improve the clarity and/or intent of these terms.

One dairy trade association and several academics mentioned that requirements around indoor workplaces should define what constitutes an “indoor” facility at a dairy, and should emphasize safety considerations concerning the build-up of dangerous gases.

Fair Trade USA Response: In the United States Amendment, we have added further clarification on what constitutes an indoor workplace at a dairy farm, and in the APS criterion related to indoor workplace safety, 3.2.1.d, we have included a clarification that indoor facilities must be properly ventilated to prevent build-up of dangerous gases.

Risks from Chemicals and Pesticides

Several dairy health and safety experts, one dairy trade association, several academics, and one dairy owner recommended addressing risks from hazardous chemicals that are used on dairies, beyond just pesticides.

Fair Trade USA Response: We agree that addressing risks from hazardous chemicals, beyond pesticides, is critical on dairy operations. Therefore, we have included references to hazardous materials in all applicable safety requirements in the APS. For example, criterion 3.2.2.a now includes hazardous materials more broadly, in addition to pesticides and fertilizers.

Living Wage Implementation

Among stakeholders commenting on living wage requirements there was some confusion around the living wage benchmarking process, availability, and use. Stakeholders from a retailer, dairy industry experts, and a dairy pilot participant all asked how family size affected the benchmark calculation and use. Dairy pilot participants also expressed support for living wage in concept but were concerned with their ability to close the gap without support from their buyer. There were also questions as to how different positions and experience levels should be accounted for. Some dairy stakeholders were concerned about the lack of approved benchmarks for the United States and suggested other sources for wage numbers that could be used.

Fair Trade USA Response: Based on this feedback, we clarified the intent of our living wage requirements and the use of benchmarks aligned with the Anker living wage methodology. We have also been collaborating on the development of living wage benchmarks for the United States consistent with the Anker methodology, which will be published soon along with additional guidance on living wage. Additionally, we clarified requirements for the calculation of prevailing wages and comparison to living wage benchmarks. Fair Trade USA also plans to continue to create resources for supporting conversations between Certificate Holders and buyers to support living wage improvement, and in the future consider requirements to be included in the Trade Standard for buyers.

Worker Benefits

One Certificate Holder, several dairy owners, several growers, and several dairy academics and experts mentioned that providing some of the benefits required in the APS, such as six weeks of maternity leave at full pay, can be complicated and costly in the United States since there are few government-sponsored options. They recommended allowing Premium to support the provision of benefits in some capacity for all farm sizes. Several dairy experts and academics suggested leveraging the Fair Trade Committee or Social Engagement Team to prioritize the workplace benefits that are most important and meaningful to them.



Several growers, experts, and academics noted that many workers have varying needs and desires when it comes to the benefits they would like to receive at work.

In terms of dairy worker suggestions for broader improvements to their benefits and benefits systems, those interviewed mentioned (1) increasing salary, (2) having a fair and transparent system around salary increases, (3) providing bonuses, (4) providing better medical insurance, (5) offering a retirement plan, (6) providing child-care services, and (7) allowing an additional day of rest each week (2-day weekend).

Fair Trade USA Response: We recognize that the context in the United States is such that providing some more costly benefits could pose a financial risk to farms and facilities that is not in line with the impact objectives of the APS. Therefore, we have made several adjustments to the paid leave requirements (criteria 3.3.3.b and 3.3.3.c) in the United States Amendment, including making the provision of six days of vacation on full pay annually and full pay for maternity leave a best practice for all farm/facility sizes, except where legally required. However, providing a minimum of three days of sick leave on full pay annually and six calendar weeks of job-protected maternity leave is still required.

We hope that this update will provide greater flexibility to employers in the United States. Workers remain free to identify and prioritize Premium projects that directly address the needs that such benefits often address. We appreciate the creative solutions to this important topic that were offered by stakeholders. We plan to explore these and other innovative approaches to worker benefits during the major revision of the APS that will begin at the end of 2021.

Several academics noted that, even where health insurance is offered and the employer covers 50% of the cost, this is still too expensive for many workers and thus they decline coverage. Given, this they suggested having alternative options for providing health coverage and care where workers are declining insurance. Additionally, one worker representative mentioned that some workers are provided with benefits, but they are unsure of how to access and use those benefits or choose not to use their benefits because they fear retaliation from their employer.

Amongst the dairy workers that we interviewed, some suggested that their current medical insurance could be improved. Indeed, one worker mentioned during their interview that they have decided not to get medical attention in the past when they needed it because their insurance does not provide sufficient coverage. However, other interviewees chose to highlight without any prompting from the interviewer that they feel their medical insurance is great and have had no trouble using it. That is to say, it seems the quality of medical insurance, accessibility, and use varies widely across dairy farms.

Fair Trade USA Response: We agree that offering alternative options for health care can be extremely beneficial where workers are declining health insurance. As such, in criterion 3.3.4.a of the APS we have noted that employers may explore other health care options in cases where workers are routinely declining the offer of health insurance. It is also important to note that, currently, Premium may be used to cover the worker portion of health insurance payments, or an additional alternative health care initiative should the need be identified and prioritized by Premium Participants.

We also agree that the transparency in benefits provision, communication around benefits coverage and how to access them, and preventing discrimination related to benefits is incredibly important. Therefore, we have several criteria throughout the APS that address these issues directly. Criterion 3.7.1.a ensures workers receive information on their rights under the APS, 3.1.1.c ensures employment terms and conditions are clearly defined and communicated in agreements/contracts, and 2.4.1.a ensures workers are not subject to discrimination in allocation of benefits, for utilizing the benefits provided, or in amounts charged for benefits.



Working Hours

During the consultation period and dairy pilot audits, working hours requirements in the APS came up most frequently in stakeholder comments (criteria 3.4.1.a, 3.4.1.b, 3.4.2.a, and 3.4.2.c). Most dairy industry stakeholders, including dairy owners, dairy Certificate Holders, brands, dairy trade associations, industry experts, academics, auditors, and workers were aligned in the feedback and suggestions they provided on working hours requirements. The comments received largely fell into three different categories: definitions and use of the terms “regular work” and “overtime”, daily meal and rest breaks, and workweek hour limits.

Definitions and use of the terms “regular work” and “overtime”

Most dairy stakeholders and some growers in the United States highlighted that the use of the terms “regular working hours” in APS criterion 3.4.1.a, and “overtime” in APS criteria 3.4.2.a and 3.4.2.c are confusing for implementors in the United States. These stakeholders noted that for many states in the United States, overtime and regular work limitations are not applicable for agriculture, or where they are applicable, there are separate legal definitions used that do not align with Fair Trade USA’s definitions. Additionally, overtime is typically associated with a higher pay rate in the United States, whereas the APS requirements are more focused on ensuring overtime is voluntary rather than requiring a specific pay rate for this time. Therefore, these stakeholders felt that Fair Trade USA’s requirements around regular work weeks and overtime could cause a great deal of confusion and conflict when compared to United States law. This in turn could make communicating legally- and APS-required policies to employees very challenging.

Many dairy stakeholders also argued that the term “regular working hours” implies that these are the hours that workers typically work in a week. However, the APS criterion 3.4.2.c actually allows workweeks to consistently go up to 60 total hours (and occasionally 72 total hours) so long as workers agree to the increase. Given that in dairy operations in the United States workers are often requesting more hours and thus are regularly working over 48 hours per week, dairy stakeholders found the definition of regular working hours in the APS to be inaccurate and disingenuous when it comes to describing the normal working hours on dairies.

This desire to work more hours was also confirmed in dairy worker interviews. Interviewees were asked to provide an estimate of their weekly work schedule and to reflect on their vision for an ideal work schedule. The estimated average workweek of the workers interviewed was about 60 hours. Interviewees generally reported feeling that their work schedule was fine as is, frequently referencing a sense that the work activities are not overly taxing, making the long hours manageable. Some interviewees also reported that their managers were flexible with allowing workers to modify their work schedules when needed. A few workers highlighted a desire for more rest days each week, while keeping the same number of total working hours.

Fair Trade USA Response: We greatly appreciate the thoughtful and detailed feedback that we received on this topic, and have made several updates aimed at addressing these challenges raised by stakeholders. First, we updated criterion 3.4.1.a in the United States Amendment to focus on ensuring workers do not work longer than 60 hours per week regularly, and have removed the term and definition of “regular hours”. Second, we removed the Fair Trade USA definition of “overtime” from criteria 3.4.2.a and 3.4.2.c in the United States Amendment, and instead defer to legal definitions in the region of implementation. Third, we have improved the language used throughout the United States Amendment related to workweek and overtime hours to ensure they are clear.



Daily meal and rest breaks

Several dairy owners noted that the payment required for meal and rest breaks is unclear (see criterion 3.4.1.b), particularly for hourly wage/salary workers. They also mentioned that it is unclear whether rest breaks are considered working hours.

Fair Trade USA Response: We agree that calculating compensation for rest breaks and determining whether rest breaks are included in total working hours can be confusing, and appreciate stakeholders pointing this out. Based on this feedback, we have clarified in criterion 3.4.1.b of the APS how to calculate compensation for rest time for different types of compensation setups, including hourly wage and salary payment structures. Additionally, we have clarified in the APS that paid breaks are considered work hours that would be included in the sum of hours worked during the workweek.

Workweek hour limits

Most dairy stakeholders and some growers in the United States noted that the weekly working hour limits required in APS criteria 3.4.1.a and 3.4.2.c (48 regular hours and 12 overtime hours) will be extremely challenging for employers to comply with given the state of the dairy industry, as well as the labor market and regulatory environment in the United States.

- These stakeholders argued that workers want more hours, and a reduction in working hours would receive pushback from workers. Additionally, every dairy producer in the program expressed concern that reducing working hours would result in a competitive disadvantage in attracting workers relative to other farms and industries that are offering more hours. This was partially confirmed in worker interviews, as mentioned above.
- These stakeholders also noted that reductions in weekly working hours can be very costly for farms as it requires employers to increase wages (in order to keep take home pay for workers consistent), and hire additional employees, which would require onboarding, training, and building housing for new workers.
- Many dairy industry stakeholders also highlighted the fact that dairy operations run year-around and around the clock. Cows must be milked day and night, regardless of what else is happening on the farm. This makes limiting weekly working hours more challenging when issues, such as labor shortages (which are currently being seen in the United States), employee absences, and emergencies arise on the farm.

Health and safety experts in the industry acknowledged that working hours is challenging given the many different variables contributing to the issue and mentioned that there are some safety measures that can be taken to minimize the risks associated with working long hours. These include regularly switching tasks, maintaining consistent shift timing, ergonomic design, front-loading more hazardous activities, and greater enforcement of rest breaks; though they did note that long hours and fatigue do present an increased risk nonetheless.

Fair Trade USA Response: We understand how challenging the limits on weekly working hours in the APS can be for employers, particularly those in the United States. However, we also believe it is important to set limits on total work hours to ensure proper rest and recovery for workers, and to foster positive health and safety outcomes on farms. Therefore, we have incorporated a few updates to the APS and United States Amendment that we believe will allow for greater flexibility in working hours while still protecting workers' health. As noted above, we updated criterion 3.4.1.a in the United States Amendment to focus on ensuring workers do not work longer than 60 hours per week regularly, and have removed the term and definition of "regular hours". For criterion 3.4.2.c in



the United States Amendment, we expanded the number of weeks where working hours can increase to a maximum of 72 hours. In addition, for criterion 3.4.2.c in the APS and United States Amendment, we added an option that allows Certificate Holders to apply for a Continuous Improvement Plan in cases where employers face long-term challenges to compliance.

Housing Quality

Overall, stakeholders seemed to be in alignment with the intent of the housing quality requirements in the APS (criteria within Objective 3.6.2). However, several Certificate Holders and dairy owners suggested that the APS is not inclusive of the diversity of worker housing situations seen at dairy operations, particularly when it comes to long-term single family homes where the requirements in the APS seem overly prescriptive and not well-suited.

Many dairy owners also expressed concern with how the APS housing requirements might infringe on the privacy and autonomy of workers. Relatedly, several representatives from a conformity assessment body noted that, where employer-provided housing was structured as long-term single family homes, workers were uncomfortable with auditors entering the home for inspections. As such, some stakeholders recommended that housing details and provisions be determined through a tenant and landlord style agreement between employers and workers to respect worker privacy and autonomy.

On the other hand, several academics noted that, although worker privacy is a concern, some workers are not accustomed to the infrastructure and appliances common in the United States and do need support and training around how to maintain their employer-provided homes. Additionally, these stakeholders commented that some workers would benefit from cleaning support and inspections, but this is very dependent on the living arrangement and individuals.

During interviews with dairy workers, workers were asked to reflect on if they like the housing provided to them by their employer, if the housing has all of the necessities they require, if they feel they have sufficient privacy, if there is anything that their employer could do to improve their housing situation, how they feel about their employer entering the accommodations, and if they would like to have support with cleaning. All of the interviewees reported being generally happy with their employer provided housing. A few of the interviewees suggested that minor improvements are needed occasionally, such as fixing a washing machine or dryer. However, many interviewees also mentioned that if anything comes up their employer is happy to help resolve the issue. Nearly all the interviewees reported that they were fine with the level of privacy in their employer-provided housing, and all of the interviewees reported feeling ambivalent about their employer entering their accommodations occasionally for inspections or cleaning.

Fair Trade USA Response: Based on the robust stakeholder feedback received on this topic, we have made some important updates to criteria 3.6.2.e and 3.6.2.f in the APS. First of all, we divided up specific requirements within criteria 3.6.2.e and 3.6.2.f to note which requirements are applicable to family homes versus dormitory housing in order to acknowledge the differing needs and priorities within different employer housing types. Secondly, we added language to 3.6.2.e in the APS to highlight how housing agreements may be used to facilitate compliance with the housing quality requirements as well as promote greater transparency and understanding around employer provided housing arrangements.

Two brands, one Certificate Holder, and several dairy owners felt it was unreasonable to expect employers to provide a first aid responder and first aid kits, as required in criterion 3.6.2.d, for each worker housing location given that some of the housing may be spread out across off-site locations, making implementation incredibly costly. Additionally, several of these stakeholders suggested clarifying how



government sponsored emergency response services, where available, factor into compliance with criterion 3.6.2.d, as well as what types of emergencies should be planned and trained for.

Fair Trade USA Response: In the APS criterion 3.6.2.d, we have clarified that the type of first aid equipment and level of training should be commensurate with the workplace circumstances, including the availability of public emergency responders in the region. Additionally, we provided further clarification on the intent of the requirement, as well as more details on implementation options that could add flexibility and reduce the cost of complying with criterion 3.6.2.d.

Social Engagement Team and Worker Engagement

Several growers and worker representatives commented on the requirement that a Social Engagement Team (SET) be in place. They acknowledged that the SET is a key tool that could help improve communication and engagement on-farm. However, to see the full benefits and potential in the SET, there needs to be trust and open dialogue between workers, middle management, and owners. Some stakeholders felt that it is important to require training for middle managers and SET members, to ensure the committee is reaching its full potential.

Relatedly, dairy workers were asked in interviews to comment on their perspective on workplace communication and culture at the farms they work. Responses indicate a wide range in the quality of communication between workers and supervisors. Interviewees highlighted two communications practices that they found to be helpful in particular: (1) a supervisor started a WhatsApp chat group that is working well to maintain fluid communication among workers and management and (2) some of the supervisors have learned some Spanish, which workers have found to be helpful. Interviewees seemed particularly interested in having more direct and frequent feedback from supervisors on what is going well in their work and what could be improved. On the topic of communication and workplace dynamics, it seems that these workers' central interests are: (1) having healthy relationships amongst the workers, (2) having good communication among workers to avoid conflicts and to address issues as they arise, and (3) having open channels of communication with supervisors and receiving clear feedback.

Fair Trade USA Response: We were pleased to hear such positive feedback on the concept of the SET, and to receive comments from workers that help us better understand the communication and culture needs on farms. We see this as a very valuable part of our program that could be instrumental in supporting some of these suggestions raised by workers, and are committed to continuing to improve the effectiveness and impact of this Team. Based on stakeholder feedback, we added several recommendations to the SET requirements in the APS, including that members receive annual trainings. We plan to expand on these updates in a more significant way during the major revision of the APS that will begin at the end of 2021. Additionally, Fair Trade USA is currently working on the development of supporting tools and resources to better facilitate SET implementation and member training.

Module 5—Traceability and Transparency

Mass Balance

Typically, a Fair Trade Certified product must be physically segregated from other products throughout its supply chain journey. Some products (like cocoa) are allowed to use a mass balance system, which allows mixing of Fair Trade Certified and non-Fair Trade Certified products or ingredients once they have left the farm, provided the overall quantities of the Fair Trade Certified product are carefully tracked and documented. This allows for the sale of Fair Trade Certified ingredients and products in supply chains



where maintaining physical product traceability is unfeasible due to the nature of product processing systems. The requirements in our standards ensure that the amount of milk produced and sold on Fair Trade terms is the amount sold to consumers in the final product with our seal, likewise the amount sold to consumers correlates to the proper amount of Premiums received by each Fair Trade Committee.

Several dairy owners and a dairy trade association expressed a desire for Fair Trade milk to move towards physical segregation in the future, rather than utilize a mass balance system.

Fair Trade USA Response: Given the operational complexities of milk production, the transport and pooling of milk by cooperatives, and the volumes of milk currently being Certified, mass balance was necessary for dairy supply chains to provide the benefits of certification to as many producers and farm workers as possible. As the dairy program grows, physical segregation may become feasible for more Certificate Holders, which we will encourage, but we foresee that mass balance will always be needed as an option for dairy supply chains due to the above constraints.



ABOUT FAIR TRADE USA

Fair Trade is the leading third-party certifier of Fair trade products in the United States. We enable consumers to make a difference with their dollar. We help people and the planet work in tandem so both are healthy and sustained. We provide farmers in developing nations with the tools to thrive as international business people. Instead of creating dependency on aid, we use a market-based approach that gives farmers fair prices, workers safe conditions, and entire communities resources for fair, healthy, and sustainable lives. We seek to inspire the rise of the conscious consumer and eliminate exploitation. Learn more at FairTradeCertified.org.

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