



Quarterly Dairy Legal Update: April – June of 2023

Below is a listing of legal and regulatory developments impacting the dairy industry during the second calendar quarter of 2023. Additionally, recently published dairy resources of interest are included at the end of this update.

1. Pennsylvania Milk Marketing Board (PMMB) Actions

Pennsylvania Milk Marketing Board (PMMB) Issued Order Continuing \$1 Over-Order Premium Until December 2023

On June 21, 2023, the Pennsylvania Milk Marketing Board (PMMB) [issued](#) an official general order continuing the \$1.00 per hundredweight over-order premium for all Class 1 milk produced, processed, and sold in Pennsylvania. The order became effective on July 1, 2023, until December 31, 2023. The PMMB made this decision following a hearing held on June 7, 2023.

2. U.S. Department of Agriculture (USDA) Actions

The International Dairy Foods Association (IDFA) Filed Petition to Amend Federal Milk Marketing Orders

On April 5, 2023, the American Farm Bureau Federation [addressed](#) a letter to the U.S. Department of Agriculture's (USDA) Secretary Tom Vilsack, expressing support for the National Milk Producers Federation's (NMPF) in their opposition to the International Dairy Foods Association's (IDFA) March 28, 2023, [petition](#) requesting that the USDA initiate proceedings to amend all existing Federal Milk Marketing Orders (FMMOs). The Wisconsin Cheese Makers Association also [submitted](#) to USDA a similar request. The NMPF disagreed with the reform petitions, highlighting the limited nature of the relief requested. The American Farm Bureau Federation urged the USDA to reject the IDFA's petition. Under 7 CFR 900.22, the USDA is required to respond to the IDFA's petition within 30 days.

The National Milk Producers Federation (NMPF) Filed FMMO Reform Request

On May 1, 2023, the National Milk Producers Federation (NMPF) [requested](#) a hearing from the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS). The purpose of the hearing is to discuss a series of reform proposals for federal milk marketing orders (FMMOs) that would be applicable nationwide. These reform proposals, which were approved by the NMPF board and publicly [announced](#) on March 7, 2023, are divided into five separate proposals and consist of a comprehensive document spanning fifty-one (51) pages. Each proposal provides detailed explanations and justifications for the suggested reforms.

The Federal Milk Marketing Order (FMMO) Petitions on Make Allowances Clarified

On May 30, 2023, the International Dairy Foods Association (IDFA) [responded](#) to a April 28, 2023, [request](#) from the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service's (AMS) seeking clarification on the specific make allowance values requested in IDFA's March 28, 2023, [petition](#) to amend all federal milk marketing orders (FMMOs). Additionally, co-petitioner Wisconsin Cheese Makers Association (WCMA) [submitted](#) supplemental information for their March 28, 2023,



[petition](#), seeking the same relief as IDFA's petition. All petitions and related communication can be found on the USDA AMS's webpage dedicated to [Federal Milk Marketing Orders Petitions](#).

The U.S. Department of Agriculture (USDA) Commenced FMMO Reform Hearing Process

On June 1, 2023, the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) published an [Action Plan on Proposed Amendments to the Pricing Provisions of All Federal Milk Marketing Orders](#) (FMMOs). This action plan is in response to the National Milk Producers Federation's (NMPF) formal proposal, filed on May 1, 2023, which requests amendments to all FMMOs. USDA is considering initiating a rulemaking process that would involve holding a public hearing to gather evidence concerning proposed pricing provision changes that would apply to all eleven FMMOs. The [published schedule](#) includes a call for additional reform proposals by June 14, 2023. A virtual pre-hearing information session is set to take place on June 16, 2023. Furthermore, USDA anticipates publishing a notice for the hearing in late July 2023, with a tentative start date for the hearing on August 23, 2023.

Ten Dairy Groups Submitted Modified Proposals for Tentative FMMO Hearing

On June 20, 2023, ten dairy groups submitted revised proposals for review during the U.S. Department of Agriculture's (USDA) formal Federal Milk Marketing Order (FMMO) hearing:

- [American Farm Bureau Federation](#)
- [California Dairy Campaign \(California Farmers Union\)](#)
- [Cedar Grove Cheese](#)
- [Dairy Pricing Association, Inc.](#)
- [Edge Dairy Farmer Cooperative](#)
- International Dairy Foods Association: [Class I Mover](#) & [Make Allowances](#)
- [Milk Innovation Group](#)
- [National All-Jersey, Inc.](#)
- [National Milk Producers Federation](#)
- [Wisconsin Cheese Markers Association](#)

According to [USDA's FMMO Action Plan](#), if USDA decides to proceed with a formal hearing, a notice of the hearing will be published in the Federal Register by the end of July. The scheduled date for the hearing is set to take place on August 23, 2023.

The U.S. Department of Agriculture (USDA) Announced \$104 Million in Organic Dairy Marketing Assistance Program

On May 19, 2023, the U.S. Department of Agriculture (USDA) [announced](#) \$104 million in aid for organic dairy producers under the new [Organic Dairy Marketing Assistance Program](#) (ODMAP). The program aims to address challenges faced by the organic dairy industry, including market volatility, increased input and transportation costs, and unstable feed supply and prices. Under ODMAP, eligible producers of organic cow, sheep, and goat milk can apply for assistance by submitting their 2022 market costs to estimate their projected 2023 marketing expenses. The application period runs from May 24 to June 24, 2023, and requires producers to confirm their 2022 milk production and provide a copy of their organic certification.

3. U.S. Food and Drug Administration (FDA) Actions

The U.S. Food and Drug Administration (FDA) Amended 2021 Yogurt Standard of Identity

On April 14, 2023, the U.S. Food and Drug Administration (FDA) published a [final order](#) in the Federal Register revising the agency's [June 2021 final rule](#), which amended the standard of identity for yogurt. Additionally, FDA [announced](#) the denial of the International Dairy Foods Association's (IDFA) request for a public hearing on the June 2021 rule. The final order now stipulates that yogurt products must have a pH of 4.6 or lower. The final rule became effective on April 14, 2023, and producers are required to comply with the rule starting from January 1, 2024.



The U.S. Food and Drug Administration (FDA) Updated Equivalence Processes, will Determine Grade A Dairy Equivalences from Canada, EU, New Zealand

On June 5, 2023, the U.S. Food and Drug Administration (FDA) updated its [Equivalence and Food Safety webpage](#) to include information about the general process for [determining equivalence](#). The determination of equivalence involves a general assessment of the food control system, conducting on-site assessments, and implementing applicable rules for finalizing the determination. FDA is currently assessing the equivalence of Grade A dairy products from Canada, the European Union, and New Zealand.

4. National Dairy Stakeholders' Actions & Issues

U.S. House Committee Recommended Passage of Whole Milk for Healthy Kids Act, Ensuring Whole Milk Variety in School Lunches

On June 30, 2023, the House Education and the Workforce Committee reviewed H.R. 1147—commonly referred to as the [Whole Milk for Healthy Kids Act of 2023](#)—and [recommended](#) that it should be passed. Introduced on February 21, 2023, the purpose of this bill is to ensure that schools involved in the school lunch program offer students a variety of whole milk options. If passed, the bill would make it mandatory for schools to provide both flavored and unflavored whole milk choices. If a student has a dietary-restricting disability, the school must provide a substitute for milk. Additionally, the bill provides that any milk fat in school-provided milk would not be considered saturated fat when assessing compliance with regulations on allowable saturated fat content in a meal. U.S. Representative Glenn “GT” Thompson, the primary sponsor of the bill, [welcomed](#) this action, highlighting the importance of milk in delivering essential nutrients for the overall health and academic achievement of students.

The International Dairy Foods Association (IDFA) Announced Healthy School Milk Commitment

On April 5, 2023, the International Dairy Foods Association (IDFA) [announced](#) the launch of [Healthy School Milk Commitment](#). This commitment involves the participation of around 40 milk processors who have pledged to restrict the amount of added calories and sugars in flavored milks served in school cafeterias, aligning with the requirements of the [Child Nutrition Program proposed rule](#). The companies have agreed to ensure that both flavored and unflavored school milk will contain no more than 10 grams of added sugar per 8 fluid-ounce serving by the academic year 2025-2026.

4. Regional Dairy Actions & Issues

Iowa Enacts Law Allowing Raw Milk Production, Sales

On May 11, 2023, Iowa Governor Kim Reynolds signed [Senate File 315](#) into law, allowing the production, labeling, and distribution of raw milk in the state. The law defines raw milk as “milk that is not pasteurized or graded as otherwise required” by Iowa law. Raw milk production is limited to “raw milk dairies” with a maximum of ten dairy animals actively producing milk at any given time. The new legislation prohibits producers from selling raw milk or raw milk products that exceed a coliform count of ten colony-forming units per millimeter. Additionally, the law requires that dairy animals involved in raw milk production undergo an annual examination by a licensed veterinarian and monthly testing to assess coliform and standard plate counts.

Additional Dairy Resources of Interest

Dairy Management, Inc. (DMI):

- [Dairy Market Reports](#)
 - [April 2023](#)
 - [May 2023](#)
 - [June 2023](#)



National Milk Producers Federation (NMPF):

- [Regulatory Register, Spring 2023](#)
- [News for Dairy Co-Ops: April 2023](#)
- [News for Dairy Co-Ops: May 2023](#)
- [News for Dairy Co-Ops: June 2023](#)

Farm Progress:

- [Insurance Tools for Livestock and Dairy Producers](#) (May 10, 2023)

Lancaster Farming:

- [Redding Unveils Plan for Pennsylvania's Dairy Over-Order Premium](#) (April 25, 2023)
- [Dairy Groups at Odds Over Federal Order Reform](#) (April 10, 2023)
- [Dairy Group Takes on USDA Chocolate Milk Plan](#) (April 6, 2023)
- [Pennsylvania Farm Bureau Brings Dairy Plan to State Capitol](#) (April 4, 2023)

USDA Economic Research Service (ERS)

- [Milk Cows and Production by State and Region \(Annual\)](#) (May 4, 2023)
- [Annual Milk Production and Factors Affecting Supply \(Annual\)](#) (May 1, 2023)
- Recent Milk Cost of Production Estimates—2021 Base
 - [By State](#) (May 1, 2023)
 - [By Size of Operation](#) (May 1, 2023)
- Historical Milk Cost of Production Estimates—2021 Base
 - [By State](#) (May 1, 2023)
 - [By Size of Operation](#) (May 1, 2023)
- [Dairy Situation at a Glance \(Monthly and Annual\)](#) (April 12, 2023, updated)
- [Supply and Utilization of Dairy Product Categories \(Monthly and Annual\)](#) (April 12, 2023, updated)
- [Supply and Utilization of Milk in All Products \(Monthly and Annual\)](#) (April 12, 2023, updated)
- [U.S. Trade Performance and Position in Global Meat, Poultry, and Dairy Exports](#) (April 11, 2023)

USDA Farm Service Agency (FSA)

- [USDA Offers Assistance to Help Organic Dairy Producers Cover Increased Costs](#) (May 19, 2023)



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