



July 14, 2023

Bruce Summers
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington DC, 20250

Submitted electronically via email

Dear Administrator Summers,

In advance of the August 2023 hearings on proposals for changes to the Federal Milk Marketing Orders (FMMOs), the Organic Trade Association (OTA) appreciates the opportunity to highlight the unique challenges faced by the organic dairy sector and urges the United States Department of Agriculture (USDA) to address these disparities as it considers rulemaking.

OTA is a membership-based business association representing organic agriculture and products in North America. OTA serves as the leading voice for the organic trade in the United States, representing organic businesses across all 50 states. Our members include growers, shippers, processors, certifiers, farmers' associations, distributors, brands, importers, exporters, consultants, retailers, and others. OTA's Board of Directors is democratically elected by its members, and our mission is to promote and protect organic agriculture with a unifying voice which serves and represents our diverse membership in the supply chain - from farm to marketplace.

Over the years, the organic food industry experienced significant growth, reaching a retail market value of \$67 billion. Within this market, organic dairy products contribute 10.9% or approximately \$6.7 billion in value. Specifically, USDA certified organic fluid milk holds a prominent position, accounting for 59.4% of the overall dairy category and generating \$4 billion in retail sales. However, when examining the growth rates over the past decade, organic fluid milk has shown a compound annual growth rate (CAGR) of 4.9%, lower than the combined CAGR of other organic dairy categories such as yogurt, cheese, butter, sour cream, and ice cream, which grew at 5.7%. Moreover, these are both lower than the full organic food sector which achieved a CAGR of 8.1%.¹ Unfortunately, the organic dairy's sectors growth has not kept pace with other categories.

The USDA establishes minimum prices and pooling requirements for milk through FMMOs. Over time, FMMOs have responded to changes in the dairy industry, but their treatment of organic milk remains constant. With the enactment of the Organic Foods Production Act of 1990 and the establishment of the National Organic Program ("NOP") under the USDA, the production of certified organic milk began. The time is now for USDA to act, because the current FMMOs are hindering the dynamic growth of the organic dairy industry.

¹ <https://ota.com/market-analysis/organic-industry-survey/organic-industry-survey>

When considering USDA certified organic milk in the historical context of FMMOs which originated in the 1930s, it becomes evident organic milk is a relatively new product category and is distinct and separate from conventional milk. However, the Dairy Program treats USDA certified organic milk the same as conventional milk with respect to minimum pricing and pooling. It is crucial to recognize USDA's NOP regulations explicitly state USDA certified organic milk and conventional milk are **not interchangeable products**. Mixing USDA certified organic milk with conventional milk in **any way** will cause the USDA certified organic milk to lose its organic status.

While organic processors contribute to the producer settlement fund pool payments, the FMMO performance standards cannot mandate delivery of organic milk for fluid processing. Furthermore, FMMO pool milk cannot legally substitute USDA certified organic milk. Additionally, organic milk prices surpass the FMMO-regulated prices, and USDA certified organic milk is detached from classified pricing.

OTA believes this disparity must change with the new FMMOs. For decades, this inherent unfairness cost the organic dairy industry and organic consumers **without providing any offsetting benefits**. Therefore, we urge the USDA to move forward with a national federal order hearing which includes proposals to address this issue. For instance, the USDA ought to consider the Milk Innovation Group proposal which exempts USDA certified organic milk from producer settlement fund payments. We also encourage the exploration of any other proposals to alleviate the challenges faced by our industry. OTA previously engaged with the USDA on the matter of USDA certified organic milk in FMMOs between 2015² and 2016³, ultimately withdrawing its proposal due to a lack of action. Given the current initiatives and the current environment, we believe it is crucial to address these highlighted disparities affecting organic dairy producers and ensure that the program is equitable for all participants.

OTA understands the difficult challenges facing the USDA in drafting compromise FMMOs and wholeheartedly appreciates the ongoing efforts to support all stakeholders in the dairy industry, including organic dairy farmers, processors, and consumers. Please direct any questions to our Senior Director of Government Affairs, Peter Mihalick, at pmihalick@ota.com.

Respectfully submitted,



Tom Chapman
Chief Executive Officer
Organic Trade Association

² OTA Letter to USDA, November 30, 2015, <https://www.ams.usda.gov/sites/default/files/media/OTA%20Response%20to%20USDA.pdf>

³ OTA Letter to USDA, May 10, 2016, <https://www.ams.usda.gov/sites/default/files/media/OTA%20-%20May%2010%202016%20Letter%20to%20USDA.pdf>