IDFA TESTIMONY IN OPPOSITION TO PROPOSAL 19

PROPOSAL 19

- **Proposal 19 would significantly increase Class I differentials nationwide**
- **The facts do not support an increase, and**
- **The methods by which the proponents have established their specific increases are internally inconsistent, lack factual support, and are often based upon considerations irrelevant to setting Class I differentials**

I. THE CURRENT SUPPLY OF MILK IS MORE THAN ADEQUATE TO SERVE CLASS I NEEDS

- **Temporal fluctuations in milk production and incongruity between milk production and fluid milk consumption require a sufficient "reserve supply" of milk serving non-fluid milk needs in order to ensure an adequate supply of milk to serve fluid needs.**
- **USDA : "a reserve milk supply equal to 30 to 35 percent of the total milk in the market appears to be a reasonable reserve requirement." Milk in the New England and Other Marketing Areas; Decision on Proposed Amendments to Tentative Marketing Agreements and Orders, 58 FR 12634, 12646 (March 5, 1993).**

I. THE CURRENT SUPPLY OF MILK IS MORE THAN ADEQUATE TO SERVE CLASS I NEEDS

- **Class I utilization is only 27% of FMMO milk and 20% of total milk**
- **The "reserve supply" is 73% of pooled milk and 80% of total milk**
- **More than double the 30-35% supply reserve that USDA deemed to constitute a "reasonable reserve."**
- **All but 3 of the 11 federal orders have reserve supplies far in excess of 35%**
- **The exceptions are the three Southeastern Orders. Special transportation and delivery credits recently adopted in these orders, for the specific purpose of encouraging the supply of Class I milk to those three orders, eliminate any need to raise Class I differentials there.**

I. THE CURRENT MILK SUPPLY IS MORE THAN ADEQUATE TO SERVE CLASS I NEEDS

- **The consistent decline in shipping requirements confirms the adequacy of the Class I milk supply.**
- **Since 2010, not a single federal milk order has increased the percentage of pooled milk that must be shipped to Class I plants**
- **The requisite Class I shipping percentage was lowered, not raised, in Orders 1, 30, 33, 124, and 131.**
- **This can only be attributed to the degree to which the milk supply is increasingly more than adequate to serve Class I needs.**
- **Relatedly, "No order received any call for or had any issuance of milk to be shipped to Class I plants in their order."**

II. FLUID MILK SALES HAVE UNDERGONE SEVERE DECLINES

- **National fluid milk sales have fallen over 21% from their peak of 55,165 million pounds in 1991 to only 43,448 million pounds in 2022.**
- **On a per capita basis, annual consumption fell from 247 pounds in 1975 to 130 pounds in 2022.**
- **No rational retailer would materially increase the price of a product undergoing such a steady, substantial decline in sales.**
- **Nor should the Government do so by mandatory edict.**

III. THE RETAIL DEMAND FOR FLUID MILK PRODUCTS IS ELASTIC & THE PROPOSED CLASS I DIFFERENTIAL INCREASES WILL MATERIALLY HARM SALES

- **Three 2023 studies by leading agricultural economists demonstrate that the retail own-price demand for milk is quite elastic**
- **The emergence and strengthening of plant-based beverages and other substitutes is a recent phenomenon that many earlier studies did not capture**

III. THE RETAIL DEMAND FOR FLUID MILK PRODUCTS IS ELASTIC & THE PROPOSED CLASS I DIFFERENTIAL INCREASES WILL MATERIALLY HARM SALES

- **Dr. Capp's predicted retail sales declines from Proposal 19's $1.49/cwt increase in the Class I differential are startling:**

CATEGORY	DECLINE IN SALES
Total milk	5.98%
Traditional White Milk	6.28%
Organic Milk	4.11%
Health-Enhanced Milk	5.67%
Lactose-Free Milk	2.75%
Traditional flavored milk	2.40%

III. THE RETAIL DEMAND FOR FLUID MILK PRODUCTS IS ELASTIC & THE PROPOSED CLASS I DIFFERENTIAL INCREASES WILL MATERIALLY HARM SALES

- **Demand would be further compromised by NMPF Proposal 1**
  - **Recent years show Proposal 1 would increase Class I prices by an additional $0.53/cwt**
  - **Using Dr. Kaiser's elasticity of price transmission and Dr. Capps' own price elasticities, this would result in an additional 2.08% decline in total retail milk sales**

III. PROPOSAL 19 WOULD SIGNIFICANTLY INCREASE USDA FOOD PROGRAM COSTS

Estimated Impacts Proposal 19 Differential Increase on the Federal Government Direct Purchase Cost for Beverage Milk					
	School Breakfast & Lunch	Daycare + Preschool	Food Banks + USDA	Military	Totals
Total Gallons Milk (Millions)	403	24	38	23	488
Total Pounds Milk (Millions)	3,474	207	328	198	4,207
Total Cwt Used (Millions)	34.7	2.1	3.3	2.0	42.1
Average Price Increase / Cwt	$1.49	$1.49	$1.49	$1.49	$1.49
Total Milk Cost Increase (Million $)	$51.8	$3.1	$4.9	$3.0	$62.7
Source: ALL CHANNEL TRACKING: 2022 Update The Projection of Milk Volume by Sales Channel Page 53. PRIME Consulting, May 2023					

The $1.49/cwt increase in Class I differentials would cost the Government over $67 million, assuming a direct pass-through of increased milk cost

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

USDA In Order Reform Set Class I Differentials based upon the Combination of the Base Differential plus a Location Differential:

BASE DIFFERENTIAL: Comprised Of Costs Unique To Class I:

- **Cost of obtaining a Grade A milk**
- **Recognition of Balancing Costs**
- **Portion of the actual competitive costs incurred by fluid plants to simply compete with manufacturing plants for a supply of milk.**

LOCATION DIFFERENTIAL:

- **Reflects some of the costs of moving milk from areas of production to Class I processing facilities**

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA- MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

The University of Wisconsin U.S. Dairy Sector Simulator (USDSS) study did not address the base differential, but rather looked at location differentials by addressing e.g., the costs of moving milk from supply areas to processing facilities.

Proposal 19 makes material revisions to the Class I differentials calculated by the University of Wisconsin model, based on criteria many of which bear no relevance to Class I differentials.

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA - MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

USDA Criteria Used in Setting Class I differentials:

- **USDA long ago determined that it would set one manufacturing price per manufacturing class, which would apply uniformly across the country.**
- **At the same time, the Class I differentials that would be added to those manufacturing prices to set the Class I price varied considerably, based upon each location's need to move milk from other areas. Blend prices among orders necessarily did not align.**

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

NMPF Criteria for Setting Proposal 19's Class I differentials:

- **Multiple witnesses provided extensive information regarding the cost of producing milk in general.**
  - **Their testimony did not relate to any special costs of producing milk for Class I purposes.**
  - **These general costs have not been considered by USDA in setting Class I differentials themselves, but are captured through the Class III and IV price (to which the Class I differential is added to set the Class I price):**
- **"In the aggregate, the costs of producing milk are reflected in the supply and demand conditions for the dairy products. When the supply of milk is insufficient to meet the demand for Class III and Class IV products, the prices for these products increase as do regulated minimum milk prices paid to dairy farmers because the milk is more valuable and this greater milk value is captured in the pricing formulas." USDA, 2008.**

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

NMPF Criteria For Setting Proposal 19's Class I differentials:

Regional competition in the sale of manufactured products.

- **Witnesses insisted that Class I differentials reflect regional competition at the farm level, so that California (with its low Class I utilization) needed to have Class I differentials such that the blend price in California was similar to the blend price in the Upper Midwest.**
- **In other words, Class I differentials should be set based upon the competitive relationship between regions 1,500 miles apart with respect to the sale of *manufactured milk products*.**
- **No such concept has previously been adopted by USDA with respect to the setting of Class I differentials.**

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

NMPF Criteria for Setting Proposal 19's Class I differentials:

Base Class I on the milk supply for manufacturing plants.

- **Other witnesses supported higher Class I differentials in specific locations because their cooperative had contractually committed to sell most of its milk to a large Class III cheese plant and a higher differential was needed to attract additional milk to serve Class I customers.**
- **We have not (nor historically has USDA) seen this as a basis to increase *via a federal legal mandate* the amount Class I members in the order would have to pay for their milk supply.**

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

NMPF Criteria Used in Setting Proposal 19's Class I differentials:

Increase blend price levels in areas with limited Class I needs.

- **Witnesses discussed the need to discourage milk from moving from Minnesota and Maine, respectively, in order to maintain blend price equivalence in their local markets even though milk in both locations may well be needed to the south of those locations.**
- **This position contradicts the fundamental purpose of establishing Class I differentials in order to encourage movement to where it is needed**

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

NMPF Criteria Used in Setting Proposal 19's Class I differentials:

An undefined base differential.

- **As the lead "umbrella witness," Dr. Vitaliano suggested the base differential should be raised from $1.60 to $2.20.**
- **Other proponents did not include any change in the base differential for Nashville, Winchester, Virginia and Charleston, West Virginia.**

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

NMPF Criteria Used in setting Proposal 19's Class I differentials:

Inconsistent approaches to transportation cost data.

- Dr. Vitaliano indicated that Proposal 19 differential increases were conservative because the University of Wisconsin study (and Proposal 19 itself) utilized 2021 transportation cost data, even though 2022 or later transportation cost data would supposedly show higher transportation costs.
- But many proponent witnesses relied upon 2022 and 2023 transportation cost data as justification for Proposal 19, including in support of Class I differentials in excess of those that the University of Wisconsin study supported.
- Proponents argued that the University of Wisconsin model does not account for traffic delays, but never provide a specific analysis of the dollar amount by which the study's transportation costs are allegedly understated for this reason.

IV. PROPOSAL 19 IS BASED ON UNEVENLY APPLIED CRITERIA MANY OF WHICH BEAR NO RELEVANCE TO CLASS I DIFFERENTIALS.

NMPF Criteria Used in Setting Proposal 19's Class I differentials:

A refusal to allow the "fundamental determinants" of changes in milk supply locations and costs of transportation to actually play a role in setting Class I differentials.

- **Dr. Nicholson testified that there have been considerable changes to where milk is produced and where population growth has taken place.**
- **Yet many proponents abjured Class I differential changes that would reflect these new realities in the location and quantity of milk production and the impacts of higher transportation costs, demanding instead that the new differentials preserve existing relationships, although this principle was not uniformly applied as to all areas such as Western Pennsylvania.**

V. USDA SHOULD NOT RAISE CLASS I DIFFERENTIALS IN A DOOMED EFFORT TO REDUCE OR ELIMINATE DEPOOLING

- **Depooling becomes a realistic option when the Class III or Class IV price exceeds the blend price.**
- **In the largest FMMO, Order 30, there were 34 months (out of 46) between January 2020 and October 2023 in which either the Class III or Class IV price exceeded the blend price.**
- **If Proposal 19's $1.26/cwt increase in the Class I price in Order 30 had been in place, there would still have been 33 months in which either the Class III or Class IV price exceeded the blend price.**
- **The Class I differential would have to increase to $41.32 in order to disincentivize pooling entirely in Order 30.**

MY TESTIMONY THUS FAR EXPLAINS WHY PROPOSAL 19 SHOULD BE REJECTED IN ITS ENTIRETY

I WILL NOW ADDRESS SOME SPECIFIC SHORTCOMINGS IN THAT PROPOSAL, WERE USDA NONETHELESS TO CONSIDER ADOPTING ANY ASPECTS OF IT.

V. USDA SHOULD NOT RAISE CLASS I DIFFERENTIALS IN THE THREE SOUTHEASTERN ORDERS

USDA Recently Published a Final Decision to Adopt Significantly Increased Current And New Transportation And Delivery Credits For Those Bringing Milk To Fluid Milk Plants In The Three Southeastern Orders: (Subject To Referendum Approval)

Current Credits vs. Combined New Transportation and Distributing Plant Delivery Credits ($/cwt)

FMMO	Current	New	Increase
Order 5, Appalachian	$0.07	$0.90	$0.83
Order 6, Florida	none	$0.85	$0.85
Order 7, Southeast	$0.30	$1.10	$0.80

V. USDA SHOULD NOT RAISE CLASS I DIFFERENTIALS IN THE THREE SOUTHEASTERN ORDERS

These credits will be paid on top of Class I prices, including Class I differentials. They are not netted against Class I differentials.

These credits were not taken into account when the University of Wisconsin created its model or when the proponents developed Proposal 19.

V. USDA SHOULD NOT RAISE CLASS I DIFFERENTIALS IN THE THREE SOUTHEASTERN ORDERS

These credits are equal to more than 40% of the Proposal 19's proposed Class I differential increases:

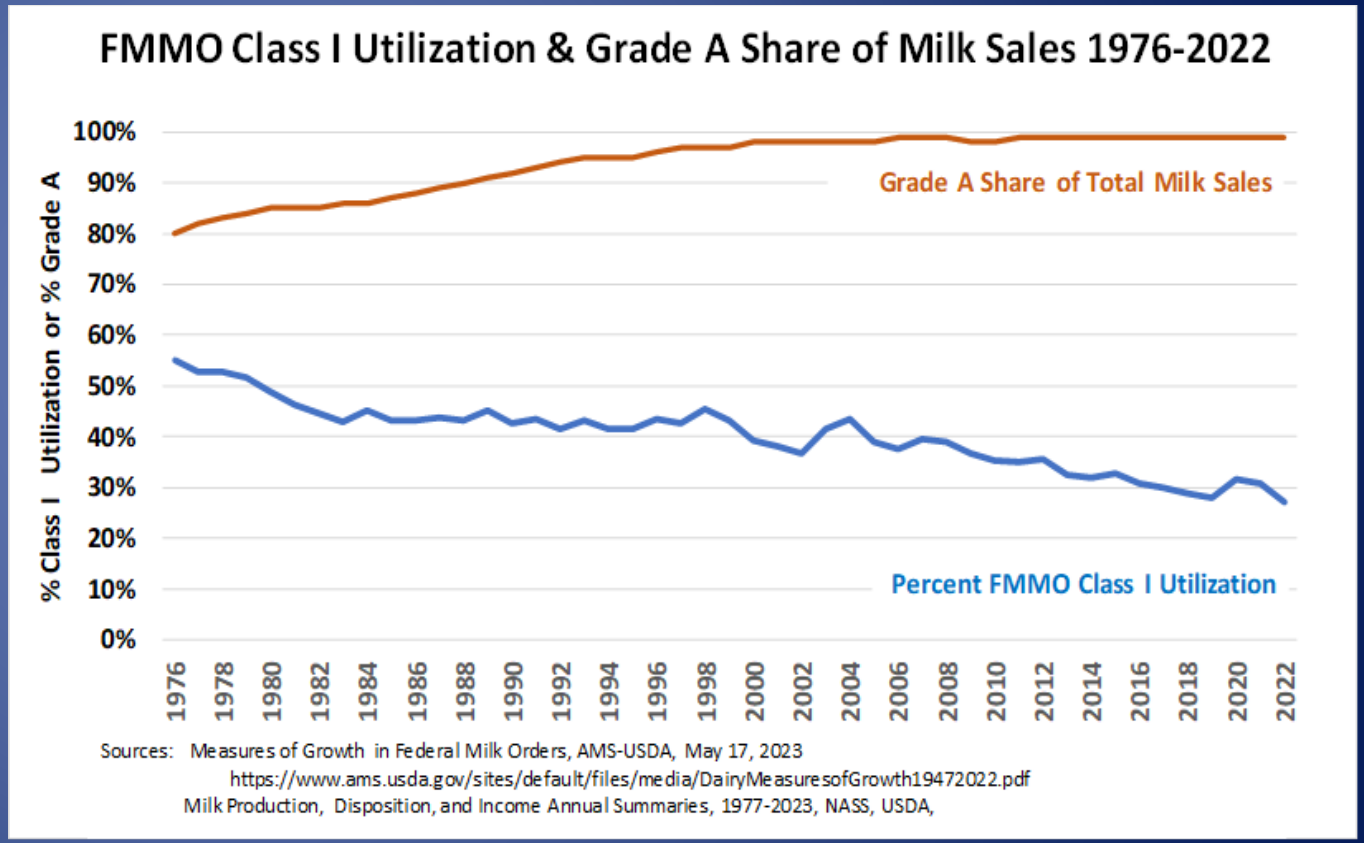
Increase in Credits for Orders 5, 6 and 7 versus NMPF Proposal 19			
Federal Order	New Transortation & Delivery Credit Increases	Average Proposal 19 Class I Differential Increase	Credit Percentage of New Proposed Differential Increases
Order 5, Appalachian	$0.83	$1.93	43%
Order 6, Florida	$0.85	$1.84	46%
Order 7, Southeast	$0.80	$1.91	42%

VI. THE 40-CENT GRADE A ADJUSTMENT IS ARCHAIC AND NO LONGER RELEVANT AND SHOULD BE ELIMINATED

- **In earlier times, only a fraction of milk produced in the United States was Grade A and eligible for fluid use. Only 60% in 1960. Only 84% in 1980.**
- **Today, by contrast, over 99% of all milk produced is Grade A milk, and in the vast majority of states, there is no Grade B milk whatsoever.**
- **With 99% of all United States produced milk already being Grade A, there is no longer any need to incentivize farmers to become Grade A.**

VI. THE 40-CENT GRADE A ADJUSTMENT IS ARCHAIC AND NO LONGER RELEVANT AND SHOULD BE ELIMINATED

- **Becoming a Grade A farm no longer has any real relationship between serving the fluid market – It serves ALL markets.**
- **The percentage of milk that is Grade A has steadily risen even as the percentage of FMMO milk that is Class I has steadily fallen):**



VI. THE 40-CENT GRADE A ADJUSTMENT IS ARCHAIC AND NO LONGER RELEVANT AND SHOULD BE ELIMINATED

- **Many uses of milk other than Class I products require Grade A milk.**
- **The PMO itself defines Grade A milk products to include cottage cheese and whey and whey products, as well as all milk products with a standard of identity provided for in 21 Code of Federal Regulations Part 131 (excluding sweetened condensed milk), including yogurt, sour cream, eggnog, and other products**

VI. THE 40-CENT GRADE A ADJUSTMENT IS ARCHAIC AND NO LONGER RELEVANT

- **Many plants producing manufactured products have extra butterfat (cream). If they themselves use that cream to make packaged cream products, or sell the cream to customers that do so, then the plant's milk needs to have been Grade A milk.**
- **Similarly, if the plant makes whey products that then go into a product that must be Grade A (such as yogurt), the whey must be made from Grade A milk.**
- **Furthermore, many manufacturers of Grade AA butter require that their supply be Grade A, whether the milk comes directly from farmers or their cooperatives** or from a manufacturing plant that has extra cream to sell.

VI. THE 40-CENT GRADE A ADJUSTMENT IS ARCHAIC, NO LONGER RELEVANT AND SHOULD BE ELIMINATED

- **The October IMS Plant list includes around 131 plants that primarily manufacture Class III and Class IV products. IMS rules require these plants use only Grade A milk, even though they are not fluid milk plants.**
- **This includes all of the large mozzarella plants; the large Hilmar and Glanbia cheddar cheese plants; and to the best of my belief, all of the large mozzarella cheese and butter-powder plants**
- **1,748 Bulk Tank Unit (BTU) facilities also appear on the IMS list – not surprising as 99%+ of all milk is Grade A.**

VI. THE 40-CENT GRADE A ADJUSTMENT IS ARCHAIC, NO LONGER RELEVANT AND SHOULD BE ELIMINATED

99% of milk already being Grade A, the only real "cost" is maintaining Grade A status

- **Biannual rather than annual farm inspections**
- **Barn walls with permeable surface be painted once a year.**

VI. ANY INCREASE IN THE CLASS I DIFFERENTIALS SHOULD BE OFFSET BY A $0.40/CWT REDUCTION BASED ON THE ELIMINATION OF THE ARCHAIC INCLUSION OF $0.40/CWT FOR THE COST OF OBTAINING AND MAINTAINING A GRADE A MILK SUPPLY

- The privately negotiated agreements to supply Class I processors milk with somatic cell counts lower than the 750,000 cell limit imposed by the PMO are not a relevant consideration
- Coops exporting ***manufactured*** dairy products to any of 27 European countries must already meet the European standard of no more than a 400,000 somatic cell count.
- Lower somatic cell counts directly benefit farmers themselves; reducing somatic cell counts from 400,000 to 200,000 increases milk production by 312 pounds per cow.

VI. THE 40-CENT GRADE A ADJUSTMENT IS ARCHAIC, NO LONGER RELEVANT AND SHOULD BE ELIMINATED

Lower Cell Counts means healthier, more productive cows.

Data from Federal Orders with SCC programs shows Dairy Farmers are achieving very low cell counts in all parts of the country serving all different types of milk processors.

Averages for Federal Orders with Somatic Cell Count Programs, 2018-2022

Order	Average SCC	Class I Utilization	Class I Milk	Total Milk
Appalachian	216	71.0%	320,435,162	451,546,891
Florida	232	82.9%	172,796,460	208,514,202
Southeast	240	70.0%	271,871,936	388,439,710
Upper Midwest	173	9.6%	217,260,718	2,261,676,939
Central	197	31.0%	380,783,333	1,230,146,815
Mideast	176	35.2%	539,583,339	1,532,144,118