National Milk Producers Federation
2107 Wilson Blvd., Suite 600, Arlington, VA 22201 | (703) 243-6111 | www.nmpf.org

Exhibit NMPF-30

United States Department of Agriculture
Before The Secretary of Agriculture

In re: [Docket No. 23-J-0067; AMS-DA-23-0031]
Milk in the Northeast and Other Marketing Areas

Hearing beginning August 23, 2023

Testimony Presented By:

Peter Vitaliano, Ph.D.
Representing
National Milk Producers Federation
2107 Wilson Boulevard, Suite 600
Arlington, Virginia 22201

I am Peter Vitaliano, Vice President, Economic Policy and Market Research for the National Milk Producers Federation (NMPF). This testimony is presented in support of Proposal 13, one of five proposals submitted by NMPF**.** NMPF is the national trade association that represents dairy farmers and the cooperative marketing associations they own and operate throughout the United States. I have been employed by NMPF for almost 38 years as essentially its Chief Economist, in which capacity I have been responsible for all economic and market analysis that supports the programs of NMPF.

NMPF is the voice of America's dairy farmers. Through its 25 dairy marketing cooperative members, NMPF represents two-thirds of the approximately 28,000 commercial dairy farmers in the United States. NMPF's member cooperatives reflect both the geographic and the product mix diversity of the dairy producer and cooperative sectors in the United States. NMPF's member cooperatives process a majority of the Class I milk pooled under Federal Orders and distributed on routes within the 11 Federal Order marketing areas and include one of the largest fluid dairy ESL manufacturers in the United States. NMPF members have significant Class II, Class III and Class IV manufacturing operations and manufacture a majority of U.S.-produced butter and nonfat dried milk products.

Given the diversity and breadth of its membership, NMPF is the dairy industry organization best able to undertake a comprehensive review of the Federal Order system and to weigh its impacts on both dairy farmers as well as processors and manufacturers. NMPF's five proposals presented at this hearing represent a balanced and integrated program of needed and long overdue updates that are in the best interests of the entire U.S. dairy industry and which appropriately balance the economic interests of dairy farmers and dairy plant operators. NMPF strongly supports the Federal Milk Marketing Order program but also believes that the program requires several regulatory and

technical updates to continue to operate in the best interests of dairy farmers, processors and manufacturers of dairy products and the dairy product consuming public.

The current system of Federal Order minimum class prices, which has been in effect since January 1, 2000, is the hybrid product of Federal Order Reform rulemaking and Congressional action. The dairy product price formulas (PPFs) for determining Federal Order Class III and IV prices implemented in January 2000 replaced the Basic Formula Price (BFP), which used a survey of milk prices, as did the preceding Minnesota-Wisconsin (M-W) price series, as the basic means of price discovery for establishing milk prices to operate the Federal Order program. Discontinuing the BFP represented a major change because it replaced this previous system of direct, survey-based, price discovery with a system that indirectly discovered raw milk prices entirely by calculation from market prices of the products manufactured from that milk. The intricate product price formulas and their constituent coefficients that resulted took on the important function of accurately simulating the market realities of the complex transfer of price discovery from the markets for dairy products to the markets for unprocessed milk used to produce them.

At the same time, the Class I prices that were established by Congress updated the pre-existing Class I differentials by adopting an optional USDA-suggested price surface, which had been generated on the basis of 1990s milk market conditions and extended it coast-to-coast. All of the prices and price formulas of Federal Order Reform were premised upon the costs and realities of milk production and dairy product manufacturing which prevailed at that time.

Those market realities have subsequently changed as the U.S. dairy industry has undergone dynamic structural change since 2000, while the critical Federal Order dairy product price formulas and Class I differentials have, for the most part, remained static. For example, the location of U.S. milk production has shifted westward, manufacturing and transportation costs have increased significantly, and the southeastern states have become progressively more milk deficit. Also, the industry has seen the successful deployment of very large manufacturing plants, and yet many smaller-sized manufacturing plants remain critically important to satisfying the domestic and export demands for the U.S. milk supply. Additionally, the United States currently sells about 18 percent of its milk production as manufactured products in export markets, compared to about 5 percent in 2000.

These realities and others necessitate a pricing formula review that incorporates the Class I mover, Class I differentials, manufacturing cost (make) allowances, and other factors in the Class price formulas. The constituent parts of those formulas, including the products used, the make allowances, and the yield factors in the component formulas, the assumed composition of producer milk, as well as the Class I differentials, have become increasingly outdated, even those few previously updated, to the extent that the effective administration of the Federal Order program has become increasingly difficult.

NMPF has engaged in an almost two year-long comprehensive study of needed updates to the Federal Order pricing formula provisions. NMPF has undertaken this important activity with the essential and dedicated assistance of dozens of marketing experts from the staffs of its member

cooperative marketing associations. In a series of over 200 mostly virtual meetings, this team examined every detail of each of the current pricing formulas of the Federal Order uniform pricing regulations in 7 C.F.R § 1000.50-52. The goal was to develop a comprehensive, integrated, and balanced program of updates to these formulas, to realign them more fully with the structural realities of the current dairy industry and to address the disorderly marketing conditions which the growing misalignment has allowed to develop. This effort included consideration of mechanisms for making further updates in the future as the industry continues to evolve. The comprehensive package which resulted includes seeking additional legislative authority for USDA to conduct mandatory studies of manufacturing costs and product yield factors, seeking a change via ordinary rule-making to the regulations implementing the Dairy Product Mandatory Reporting Program (DPMRP), and five recommendations for amendments to the uniform pricing regulations for all Federal Orders.

The NMPF Board of Directors unanimously approved this package of recommendations, including the five recommendations for proposed amendments to all Federal Orders, which NMPF has submitted as the following proposals:

1. **Update the milk component factors for protein, other solids, and nonfat solids in the Class III and Class IV skim milk price formulas**

3. **Discontinue use of barrel cheese in the protein component price formula**

7. **Increase the make allowances in the component price formulas to the following:**

Butter	**$0.21 per pound**
Nonfat dry milk	**$0.21 per pound**
Cheese	**$0.24 per pound**
Dry Whey	**$0.23 per pound**

13. **Return to the "higher-of" Class I skim milk price mover**

19. **Update the Class I differentials throughout the United States**

Implementation of all five components of NMPF's comprehensive proposal will require amendment of certain provisions of the Federal Order uniform pricing regulations in 7 C.F.R § 1000.50-52, applicable to all Federal milk marketing orders, and 7 C.F.R. §1005.51(b), §1006.51(b), and §1007.51(b). This testimony is in support of Proposal 13, concerning the Base Class I Skim Milk Price.

Proposal 13: Restore the original Federal Order Reform Class I skim milk price mover

NMPF requests that the Secretary amend 7 C.F.R. § 1000.50(b), applicable to all Federal Orders, as specified at the conclusion of this testimony, which would replace the current Class I skim

milk price mover with the original Class I skim milk price mover in effect from January 2000 through April 2019. The current language in 7 C.F.R. § 1000.50(b) is the product of two rulemaking decisions: (1) Federal Order Reform[1], and (2) the Final Rule implementing Section 1403 of the Agriculture Improvement Act of 2018[2]. Understanding both of those actions is important to understanding the deficiencies of the Class I mover during periods of market instability since its implementation in May, 2019.

In Federal Order Reform, USDA adopted a new Class I mover for the newly consolidated eleven Federal Orders to replace the Basic Formula Price (BFP). The BFP was derived from a survey of prices paid for Grade B milk by dairy manufacturing plants, processing primarily butter, nonfat dry milk, and cheese. It was, therefore, reported as a single price, which blended the value of Grade B milk used to manufacture butter, nonfat dry milk, and cheese products. The BFP was discontinued at the end of 1999 due to the declining and increasingly unrepresentative volume of Grade B milk, and the Federal Order system subsequently adopted PPFs to determine minimum class prices. The transition to these new class price formulas involved the adoption of four classes of milk, including two full manufacturing use classes, III and IV. When a new Class I mover needed to be identified, the question arose as to which manufacturing class price to use as its basis. The Department determined the mover should be the higher of the most currently calculated advanced Class III or Class IV skim milk pricing factors.

Federal Order Reform identifies at least four reasons for using the higher of Class III or Class IV as the mover and base value for Class I skim milk prices. First, basing Class I on the higher of III or IV would "more accurately reflect the value of (milk in) these different categories of use" in a four-class system. Furthermore, given the separation of manufacturing milk into two classes, using the higher of Class III and IV would "assure that shifts in demand for any one manufactured product will not lower . . . Class I prices."[3] Second, using the higher of the two classes "to move Class I prices [will help] to reduce the volatility in milk prices."[4] Third, a major consideration was to address class price inversions and depooling. The decision stated:

> Class price inversion occurs when a market's regulated price for milk used in manufacturing exceeds the Class I (fluid) milk price in a given month and causes serious competitive inequities among dairy farmers and regulated handlers. ... Thus, an inequitable situation has developed where milk for manufacturing is pooled only when associating it with a marketwide pool increases returns. Illustrative of the worsening class price inversion problem are the growing volumes of milk that, while normally associated with Federal milk orders, are not being pooled due to price inversion problems. ... Since volatility in the manufactured product markets is expected to continue, the Class I price mover developed as part

[1] 64 Fed. Reg. 16,026 (April 2, 1999).
[2] 84 Fed. Reg. 8,590 (Mar. 11, 2019).
[3] 64 Fed. Reg. at 16,094.
[4] *Id*.

> of this Federal milk order reform process should address this disorderly marketing situation.[5]

Finally, the purpose was to assist Class I handlers in competing for a milk supply. "In some markets the use of a simple or even weighted average of the various manufacturing values may inhibit the ability of Class I handlers to procure milk supplies in competition with those plants that make the higher-valued of the manufactured products. Use of the higher of the Class III or Class IV price will make it more difficult to draw milk away from Class I uses for manufacturing."[6] Indeed, the Department recognized "[t]he provisions adopted in the [Federal Order Reform] best fulfill the requirements of the AMAA."[7] Accordingly, the Department concluded that the higher of the most current Class III or Class IV value should be the mover for Class I prices. This pricing for the Class I mover prevailed in all orders in the Federal Order system until the 2018 legislation.

Section 1403 of the Agriculture Improvement Act of 2018, which was implemented in the 2019 Final Rule, changed the Class I mover to the current language, which uses the average of the Class III and Class IV prices plus a fixed differential of $.74 per hundredweight.[8] This legislated change in the mover resulted from a request by Class I handler representatives to change the mover to one that would better allow them to hedge the cost of Class I milk in the dairy product futures markets. NMPF acquiesced to this request, subject to the incorporation of the $.74 per hundredweight fixed differential. This differential represented the average value that the higher of Class III and IV contributed to the Class I mover, above the average of Class III and IV, from January 2000 through August 2017. Thus, the intention of both Class I milk buyers and dairy farmer sellers was that the change would be revenue neutral and would accommodate the buyers' desires to better manage their price risk without harming the sellers.[9] The Department reflected this understanding of the amendatory language when promulgating the Final Rule.

> The change in the Class I price formula applies uniformly to both large and small businesses. The dairy industry has calculated that applying the "higher of" provisions to skim milk prices has returned a price $0.74 per hundredweight above the average of the two factors since the pricing formulas were implemented in 2000. Thus, the inclusion of the $0.74 in the calculation *should make the change roughly revenue neutral* [emphasis added]. At the same time, it is anticipated that using the average of the Class III and Class IV advanced pricing factors in the Class I skim milk price formula will allow handlers to better manage volatility in monthly Class I skim milk prices using Class III

[5] *Id*. at 16,102-03.
[6] *Id*. at 16,103.
[7] *Id*. at 16,042.
[8] 84 Fed. Reg. 8,590
[9] While the objective of facilitating price risk management strategies for fluid milk processors may have merit, it is not an objective of federal orders, and most definitely not one that should come at the expense of achieving the objectives of the Class I mover spelled out in Federal Order Reform for maintaining orderly marketing.

> milk and Class IV milk futures and options. Until now, uncertainty about which Class price will end up being higher each month has made effective hedging difficult. Amending the Class I skim milk price provisions may help small businesses better utilize currently available risk management tools.[10]

This was effectively an early recognition by the Department of the growing importance of price risk management and the potential need for the Federal Order price mechanisms to accommodate this. But, notably, this statement did not reference nor discredit the four reasons for originally adopting the "higher of" mover elucidated in the 1999 Final Decision. Because the 2019 amendment has not functioned as intended or anticipated by NMPF, has exacerbated disorderly marketing conditions, has not been revenue neutral, and will continue to have deleterious effects on the dairy industry so long as it is in place, the change contained in Proposal 13 is requested.

Disorder caused by the average of plus $0.74 per hundredweight Class I mover

Comparing the "higher of" Class I formula, in operation from January 2000 to April 2019, to the average of plus $0.74 per hundredweight Class I formula, in operation since May 2019, reveals a clear asymmetrical impact. The higher of Class I mover will exceed the "average of" Class I mover whenever the Class III and IV advanced skim milk pricing factors differ by more than $1.48 per hundredweight. It does not matter which of the advanced skim pricing factors is higher. The reverse will be true whenever the advanced skim pricing factors differ by less than $1.48 per hundredweight. Thus, the maximum amount by which the "average of" Class I mover can exceed the higher of Class I mover is $0.74 per hundredweight, which occurs when the two advanced skim milk pricing factors are equal. However, there is no practical limit by which the "average of" Class I mover can fall below the higher of Class I mover.

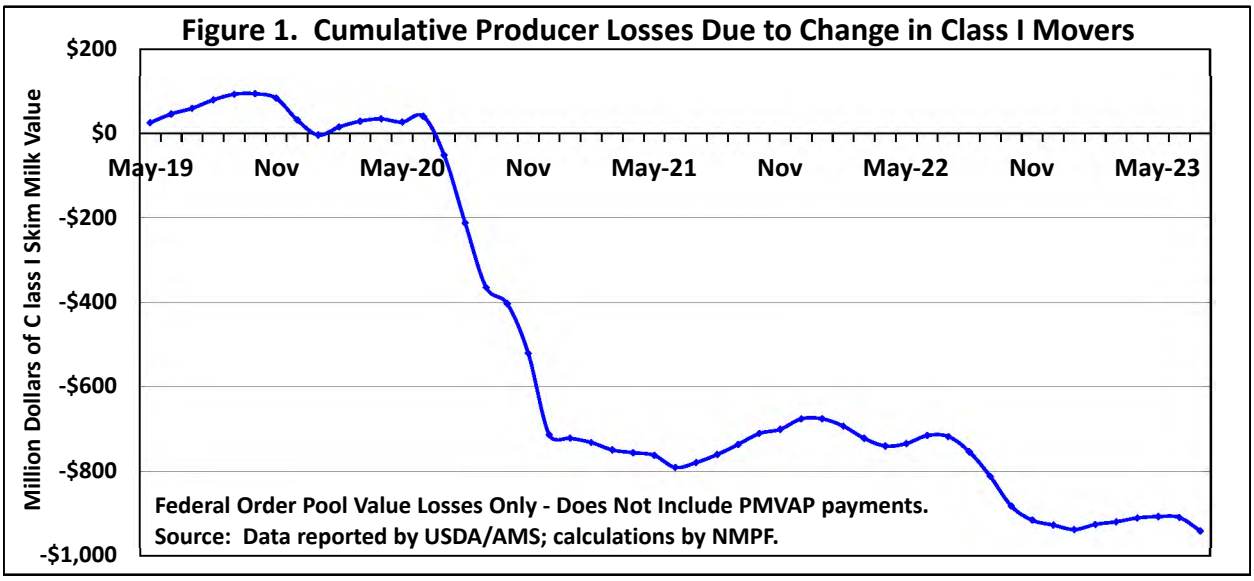
The asymmetric price risk inherent in the current Class I mover became evident during the second half of 2020 and then again during much of 2022. During these periods, the current Class I mover fell mostly, and significantly, below the previous "higher-of" mover. NMPF calculates that, since it became effective in May 2019, the cumulative market losses in pooled Class I skim milk values in all Federal Orders have reached $941.1 million through July 2023. NMPF greatly appreciates the Secretary's partial compensation of these losses through the two rounds of Pandemic Market Volatility Assistance Program (PMVAP) payments. However, this would not have been needed if the amended Class I mover had performed as expected.

More specifically, during the four and one-third years since the current Class I mover has been in place there have been three episodes when the higher-of mover exceeded the average-of mover by close to $1.00 per hundredweight or more. By contrast, as noted, the current average-of mover can never exceed the "higher-of" mover by more than $0.74 per hundredweight. During the first of these episodes, the six months from July through December, 2020, the difference averaged -$3.56 per hundredweight, generating total losses of pooled Class I skim milk value of $753.2 million, or an average of $125.5 million per month. During the second of these episodes,

[10] 84 Fed. Reg. 8,591.

the four months from August through November, 2022, the difference averaged -$1.47 per hundredweight, generating total losses of pooled Class I skim milk value of $197.8 million, or an average of $49.4 million per month. During the third, and smallest of them, the two months of July and August, 2023, the difference averaged -$1.40 per hundredweight and will generate an estimated $88 million of total pooled Class I skim milk values, or an average of $44 million per month. By contrast, the maximum positive difference of $0.74 per hundredweight would generate a gain in total pooled Class I skim milk values of $25.4 million per month, based on average monthly producer milk volumes during May 2019 through July 2023.

Figure 1 illustrates the history of cumulative losses of Class I skim milk values from all Federal Order pools during the entire time the "average of" mover has been in effect, through this past July. It does not include offsets from PMVAP payments nor is it an economic analysis. But it illustrates the pattern that is generated by the increasing volatility of the Federal Order manufacturing class prices. This pattern consists of periods of relative stability during which the "average of" mover generates modest gains over the "higher of" mover, followed by periods of volatility, described in the preceding paragraph, that generate losses that more than offset the previous modest gains. The result is mounting cumulative market losses to producers over time. When last month is added to the analysis, the cumulative losses will amount to just about one billion dollars. More detailed information relative to this analysis is provided in Exhibit NMPF-30A.



The change in Class I movers has increased the level of disorderly marketing during this period by reducing Class I prices relative to the other classes and thus creating greater incentives to depool milk. Increased depooling is inconsistent with the Federal Order Reform justification that the Class I mover should reduce the disorderly marketing conditions created by class price inversions and depooling.

The enhanced demand for cheese generated in 2020 by the Farmers to Families Food Box Program, relative to the demand for butter and nonfat dry milk, widened the spread between Class III and Class IV prices well in excess of the $1.48/cwt break point. This substantially

lowered Class I prices compared to where the previous "higher of" would have established them, created class price inversions and generated extensive l depooling of Class III milk during the second half of 2020. This was inconsistent with the Federal Order Reform justification that the "higher of" mover would "assure that shifts in demand for any one manufactured product will not lower . . . Class I prices"[11] Class price inversions recurred in 2022, because of an unusually long period of tight milk supplies. This led to relatively high Class IV skim milk prices, as cheese and whey plants continued to receive relatively adequate milk supplies while butter and nonfat dry milk plants played their traditional balancing roles, producing reduced volumes during periods of tight milk supplies. The result was again price volatility, and substantial depooling of Class IV skim milk. The third, shorter incident in the summer of 2023 resulted when cheese and whey prices fell due to excessive milk supplies relative to domestic and reduced export demand, while butter prices remained robust, pressuring Class III skim milk prices relative to those for Class IV skim milk. Hence, a wide variety of market conditions have proven to be capable, on a seemingly regular basis, of generating market volatility that drives Class III and Class IV skim milk prices sufficiently far apart to drop the current Class I skim milk price mover more than one dollar a hundredweight below the higher of the two, while periods of relative market stability are needed to allow the current mover to fall within its strictly limited range of $0.01 to $0.74 per hundredweight above its Federal Order Reform predecessor.

In sum, the "average of" Class I mover is inconsistent with the Federal Order Reform justifications for the "higher of" and does not operate as intended because it builds in an unintended asymmetric risk to producer income, which has resulted in nearly one billion dollars in losses of producer income in little more than four years of operation. The current Class I mover dramatically increases the marketing disorder represented by volatile volumes of depooled milk. Market and price volatility continue to be a basic feature of dairy markets and can be anticipated to occur in the future. Little to no data has yet been provided to suggest that the "average of" Class I mover has facilitated actual risk management activity with a total value to fluid milk processors anywhere near in magnitude to the quantifiable losses it has dealt to the nation's dairy farmers. The experiment with the average of Class I mover must therefore be deemed a failure, and the Federal Orders should be amended to return to the "higher of" formula.

The Proposed Solution: Return to the Higher of Class III and Class IV mover

NMPF proposes to amend the Class I skim milk price mover to return it to its original form, as initially adopted in Federal Order Reform; namely, the higher of the Class III and Class IV Advanced Skim Milk Pricing Factors. All of the reasons the Department cited for that original decision, as previously summarized, still apply – and likely even more so – to contemporary dairy markets and will doubtless continue to do so going forward.

In its lengthy and thorough deliberations and analyses, the group of experts that developed NMPF's package of Federal Order modernization proposals deliberately maintained, and included in its recommendations to NMPF's policy-making bodies, an alternative to returning to

[11] *Id*.

the "higher of" mover that retained the basic "average of" mover mechanism and incorporated a periodic recapture of any lost Class I skim milk pool revenues relative to the "higher of" mover. This was unanimously rejected in favor of returning to the "higher of" mover. While this alternative, and the similar Proposal 14 submitted by the International Dairy Foods Association and Proposal 15 submitted by the Milk Innovation Group, all effectively adopt the "higher of" as the standard for generating Class I skim milk price revenue to dairy farmers through Federal Order pools, they all do so in an after-the-fact manner that fails to maintain the maximum monthly separation between the advanced Class I and the manufacturing class prices that generates the best performance for a Class I mover identified by the Department in Federal Order Reform.

This testimony provides an overview of NMPF's justification for adoption of Proposal 13. More detailed testimony will follow that supports all, or key portions of, Proposal 13, including testimony provided by Craig Alexander, representing NMPF member cooperative Upstate Niagara Milk Cooperative, other members of the NMPF task force that developed NMPF's Federal Order modernization proposals, an expert witness from another organization, and producers who are members of NMPF member dairy cooperatives.

Economic and Market Impacts of NMPF's Proposed Changes

Dr. Scott Brown of the University of Missouri will testify later at this hearing on his analysis of the economic impact of adopting NMPF's five proposals previously described. His analysis will show that these proposals will have a modestly positive impact on the average price of milk received by dairy farmers, which will dissipate fairly rapidly. The resulting average prices are expected to converge within a few years to their "baseline" levels, i.e., levels expected to prevail in the absence of any order changes.

The changes proposed by NMPF will not affect the cost of producing milk nor constrain the supply of milk freely produced by the nation's dairy farmers in response to market price signals. Without either of these effects, the price of milk will continue to reflect the longer-term costs of producing it, which are not directly affected by the Federal Order regulatory changes proposed by NMPF. Any and all changes to the prices of individual dairy products, or to the Federal Order regulated cost of milk for processing individual dairy products generated by these proposals, will be limited to those necessary to reflect changes in the costs of manufacturing those products, changes in the costs of supplying milk to processors of those products, changes in the value of the milk supplied by producers to those processors, or other changes necessary to more closely align the regulated minimum value of milk with the market value of the products into which it is produced, as translated by the federal order product price formulas. Such realignment is critical to the effective functioning of the Federal Order program to ensure orderly marketing, given the fixed parametric nature of the product price formulas, coupled with the rapid evolution of the basic structural features of the U.S. dairy industry that those parameters are intended accurately to reflect.

Figure 2 below provides a perspective on the key issue of the impact on consumers of the Federal Order program, and potential changes to the regulatory provisions of that program. It charts the monthly Consumer Price Indices (CPIs) reported by the U.S. Bureau of Labor Statistics (BLS) over the past decade and a half for all items, which is the general measure of overall consumer price inflation, also referred to as the overall cost of living, together with the aggregate CPIs for all food and beverages, for all dairy products, and for all fluid milk products, the principal regulatory focus of the Federal Order program. These CPIs reflect actual retail prices paid in all U.S. cities, but they are expressed in the form of indices, with their respective U.S. average retail prices during the 36-month period of 1982-84 each set to the value 100, to facilitate comparisons.

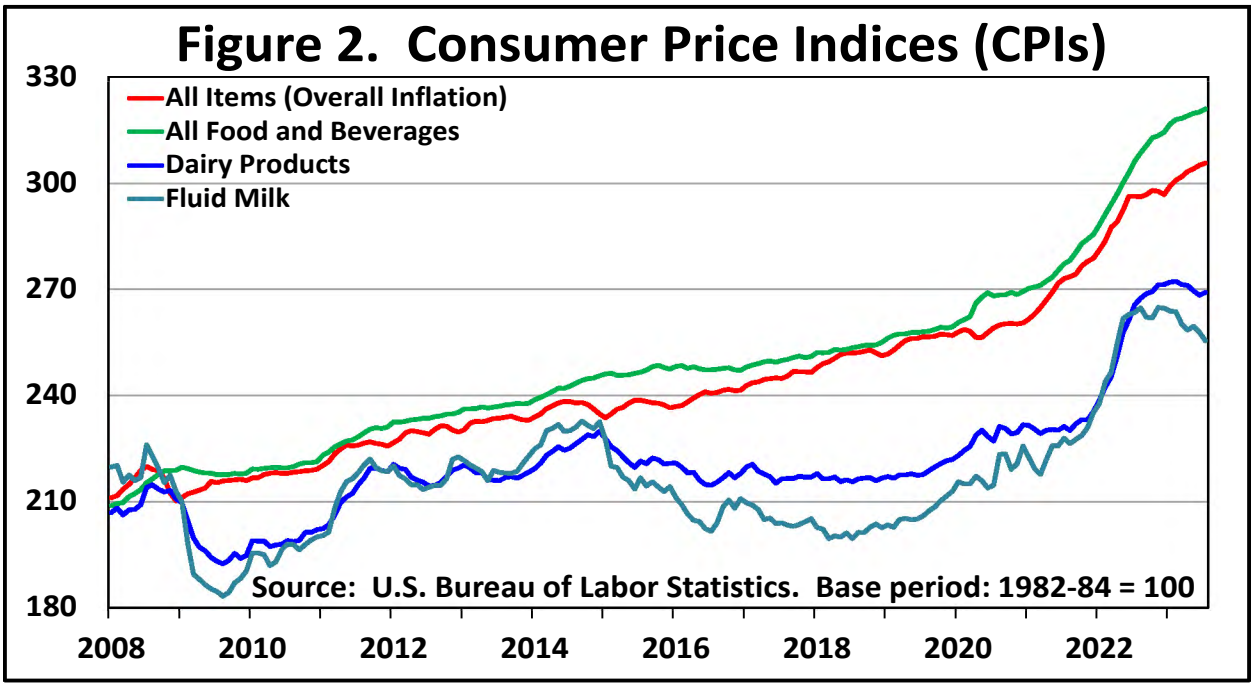


Figure 2 shows that the retail prices represented by all four of these measures had increased as of 2008 by about the same amount, slightly more than doubling during the quarter-century since the index base period. From 2008, the overall cost of living and the cost of all food and beverages have both continued to increase at a relatively steady pace, which accelerated during the recent bout of inflation, with food and beverage prices slightly outpacing the overall inflation rate, particularly in recent months.

The less aggregated dairy and fluid milk CPIs have shown a greater sensitivity to the price of producer milk, including the 2009 price plunge, the price spikes of 2014 and 2022, and the stagnation of prices between these two peaks. This closer connection between farm and retail prices for dairy stems from the fact that the cost of raw milk has averaged about 31 percent of the retail value of dairy products since 2002, while the farm value of most food and beverage products represents a much smaller share of the total retail value the finished products, which accordingly reflect more closely the main drivers of overall retail price inflation, including such factors as energy, labor and transportation. However, these factors have also caused retail price

inflation for dairy products to outpace general and food and beverage price inflation during the recent bout of general price inflation, but also to recover more quickly from it, with dairy product retail prices actually dropping this year while the two more general CPIs continued to increase.

But, of particular significance for the current purpose, the overall cost to consumers of dairy products, and fluid milk products in particular, has declined during the illustrated period relative to both overall inflation as well as general food and beverage price inflation. One noteworthy datum is that the simple difference by which the monthly CPI for all fluid milk has fallen below the monthly CPI for all food and beverages reached its highest level ever in July 2023.

Agricultural production enjoys built-in productivity advantages due to its biological basis, which can generate increases in production per animal or increases in production per planted unit as a result of genetic improvements and other productivity enhancements unique to biological production processes. These advances generate unit cost reductions which the competitive nature farming passes on up the various agricultural and food marketing channels, eventually to consumers. This consumer cost reduction aspect of agriculture varies in direct relation to the proportion which the basic agricultural commodity represents of the total retail value of the resulting food products, which, as mentioned, is relatively high for dairy products. This aspect of agricultural production, coupled with the great productivity of U.S. agriculture, has resulted in the general cost of food representing one of the smallest proportions of total consumer income in the United States, compared to that in all other countries.

It is therefore very difficult to consider the facts presented in Figure 2, which reflect the relative influence of all economic factors at play in producing general, food and beverage, overall dairy product, and fluid milk product price inflation over the past decade and a half, a period that includes the continuous operation of the Federal Order program, and conclude that Federal Orders have had a deleterious effect on consumer welfare via the retail price of fluid milk and retail prices of dairy products in general. And, given the results of Dr. Brown's analysis, this will continue to be the case under the Federal Order modernization changes proposed by NMPF.

Another key issue is the impact of the Federal Order program, and potential changes to the regulatory provisions of that program, on small businesses. As stated in the notice for this hearing, most parties subject to a FMMO are considered a small business. A large majority of those are dairy farm businesses, which, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601-612) (RFA), are defined as a "small business" if they have an annual gross revenue of $3.75 million or less.

Table 1 provides simple estimates of the average herd size and average milk sales per herd of the producers pooled on the individual Federal Orders in 2022. These estimates are weighted averages by herd sizes in the individual states that lie wholly or partially in the respective Federal Order marketing areas. These estimates would indicate that most of the producers pooled in Federal Orders in 2022 would qualify as small businesses for the purpose of the RFA.

Table 1. Estimated Dairy Herd Statistics in Federal Milk Marketing Order Areas, 2022

Order #	Licensed Dairy Herds	Average Herd Size	Average Sales per Herd
		Head	*Mil.$/Yr*
1	3,668	171	$1.0
5	769	231	$1.3
6	56	1,617	$9.1
7	620	394	$2.0
30	8,338	352	$1.4
32	2,125	772	$3.2
33	4,107	211	$1.4
51	1,115	1,544	$8.7
124	508	777	$4.6
126	435	2,085	$12.5
131	80	2,463	$14.4

Estimates by National Milk Producers Federation

As mentioned previously, Dr. Brown's analysis and testimony will show that the Federal Order modernization changes proposed by NMPF will have a modest, positive impact on the average price of milk received by the mostly small businesses that are dairy farmers in the United States. Also as previously mentioned, any and all changes to the prices of individual dairy products, and to the Federal Order component and class prices resulting from these proposals, and therefore to the uniform prices received by dairy farmers in individual orders and regions, will be limited to those necessary to reflect changes in the costs of manufacturing those products, changes in the costs of supplying milk to processors of those products, changes in the value of the milk supplied by producers to those processors, or other changes necessary to more closely align the regulated minimum value of milk with the market value of the products from which it is produced, as translated by the Federal Order product price formulas. This will also apply to any processors and manufacturers of dairy products which are also small businesses.

Concluding comment and proposed regulatory changes

NMPF sincerely wishes to thank Secretary Vilsack and the Department for holding this important hearing and for thoughtfully considering adoption of its proposed amendments to the Federal milk marketing order regulations. NMPF has devoted considerable time and resources to thoughtfully considering and recommending the important changes it considers necessary to correct the growing misalignment between the dynamic changes in the U.S. dairy industry since Federal Order Reform and the largely unchanged factors in the critical federal order component and class price formulas originally adopted at that time. Together, NMPF is requesting the Secretary to amend certain provisions of 7 C.F.R. § 1000.50-52, applicable to all Federal milk

marketing orders, and 7 C.F.R. §1005.51(b), §1006.51(b), and §1007.51(b). The changes to these regulations that Proposal 13 would entail are as follows (includes some changes pursuant to Proposal 19):

§ 1000.50 Class prices, component prices, and advanced pricing factors.

* * * * *

(b) ***Class I skim milk price.*** The Class I skim milk price per hundredweight shall be the adjusted Class I differential specified in § 1000.52, ~~plus the adjustment to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) of this chapter,~~ plus the ~~simple average~~ **higher** of the advanced pricing factors computed in paragraph (q)(1) and (2) of this section rounded to the nearest cent~~, plus $0.74 per hundredweight~~.