AGRICULTURAL MARKETING SERVICE

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USDA PUBLIC MEETING:

Proposed California Federal Milk Order

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PUBLIC MEETING

Wednesday, February 22, 2017

9:00 a.m.

CLOVIS VETERAN'S MEMORIAL BUILDING

808 Fourth Street
Clovis, CA 93612

Reported by:

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WEDNESDAY, FEBRUARY 22, 2017

CLOVIS, CALIFORNIA

9:00 a.m.

MS. COALE: Good morning, everyone. Welcome back to Clovis, California. It is delightful to be here again. I am Dana Coale, I'm the Deputy Administrator with Dairy Programs in the Agricultural Marketing Service at the U.S. Department of Agriculture.

We're here today to host a public meeting to help share information with you regarding the Recommended Decision that was published in the Federal Register on February 14th. And in that Recommended Decision, the U.S. Department of Agriculture set forth provisions for a California Federal Milk Marketing Order. So today we're going to be discussing with you, and explaining, the what's and how's of the recommendation that was put forward by the Department, we will not be addressing the why's. So as you think about it and you are posing questions to USDA, keep in mind we want "what" and "how" questions, not "why" questions.

So first of all, before we get started I would like to make a few introductions for everyone of the key people in the room from the U.S. Department of Agriculture. So sitting up at the front of the room we have Erin Taylor, who is the Acting Director of the Order Formulation and Enforcement Division in

Dairy Programs. Next to her we have Bill Wise, who is the Market Administrator for the Arizona and the Pacific Northwest Federal Milk Marketing Orders. And to his further right is Cary Hunter, who is the Market Administrator for the Southwest Federal Milk Marketing Order.

Over to my left here we have three individuals, Cliff Carman, who is the Assistant to me at Dairy Programs. Next to him is Michael Johnson. He is the Assistant Market Administrator at the Southwest Federal Milk Marketing Order. And finally we have Melissa Costa, who is a grader in the Tulare area. And these three individuals will be assisting taking any questions as you have, and I'll be explaining that process in a little bit.

We also have with us our legal counsel, Brian Hill, from the Office of General Counsel, assisting us with any issues that come forward.

Before we get started I want to re-emphasize that this is being webcast, so we would like to welcome all of the individuals across the United States who have tuned in to listen to our public meeting. With that in mind, I do ask that you make certain your cell phones are on vibrate or silenced so that they don't come across to the entire United States.

We also ask that you take a few minutes to register your attendance here. We have a couple of sign-in sheets over to the -- to my right. And just put your name and your affiliation and that will just help us have an idea of who is attending the meeting. If there are any press in the room, I would ask that you would register under the press registration.

On that table you will also find a business card. You are welcome to help yourself to the business card. What we have here is information on how you can comment. As you are aware, this is a very inclusive process and it's very important that you participate. And this provides the web e-mail addresses where you can submit comments on the Recommended Decision. We'll be going over that further in a few moments.

At this time I would like to ask Candace Gates, who has joined us from the Marketing Division of the California Department of Food and Agriculture, to come forward and make a few comments. Candace?

MS. GATES: Thanks, Dana. Good morning, everybody.

I'm Candace Gates from the California Department of Food and Agriculture. We're here today to learn more about what the California Federal Marketing Order would look like here in California as USDA has put forward.

Like you, we saw the Recommended Decision for the first time on February 14th, when it was released. We understand that many of you may have a lot of questions for us, that's why I'm here today, to make a statement regarding that.

We are currently looking at our authority to administer the California Quota System as USDA has outlined it in the

Recommended Decision to establish a California Federal Milk Marketing Order. During the process we will determine if our current authority is sufficient or if change will be needed to allow the California Program to be administered stand alone program -- Quota Program.

Once we complete the process, we will publish the findings in the California Dairy Review, post it on our website, and provide a link for USDA to post on their website -- and hopefully that wasn't too echoey.

MS. COALE: Thank you, Candace.

So as you can tell, CDFA will not be entertaining any questions today concerning issues that you might have regarding the Quota Program, and they will be coming out with that information later.

Today we have got an agenda. We'll go through what our rule making process is, it's important for you to understand how to participate and why your participation is important in this process. We're going to spend the bulk of the meeting going through the California provisions that we have proposed in the Recommended Decision.

It's essential that you understand what this Federal Milk Marketing Order will do. This is a provision that will impact the California Dairy Industry and we want to make certain that you understand it. During the course of today we will answer any questions that you have regarding those general operations. We'll talk about the application and the actual administration, and then we'll conclude with our question and answer session.

I would ask that throughout the presentation that we give, which we expect to last about an hour and a half, that you are welcome to write down any questions that you have. We have put white index cards on the tables. Please write down your questions, and if you want to hold them up, we'll collect them during the presentation, but we will be answering them following the presentation. So all questions will be answered at the end. Again, the questions are to be written down. If there are questions that are Ex Parte in nature, we will be addressing the questions and indicating that we will not be answering it at this time. All of the questions that we are able to answer, we will read those questions, and then we'll provide the answer for you.

We hope that this is a very thorough process. Because we are in a formal rule making process, this will all be part of the Hearing Record and it's very important that we follow the provisions that have been set forward.

Part 916 in the Code of Federal Regulations specifically sets forth the provisions on Ex Parte. Ex Parte are communication restrictions that apply to all USDA employees. And basically, this prevents us from having any off-the-record conversations. An off-the-record would be a private conversation not in a public setting.

This public meeting is the first of its kind. Typically USDA does not host a public meeting when we issue a Recommended Decision. We are allowed under Part 916 to have a public meeting when it has been officially noticed -- as it was in our decision -- and we provide an opportunity for the public to participate. Prior to the meeting we had an opportunity for individuals to submit questions that they had via an e-mail address. We took those questions and incorporated the answers into the presentation that we will be giving in a few minutes. In addition, you will be able to participate here today by submitting questions again that are written and handing it in.

This meeting will be transcribed, it will be posted on our website, and it will be officially part of the record. The link to the webcast will also remain on our website so that if you want to go back and re-listen to all of it, or parts of it, or specific questions, that will be available for you as well. This is all designed to be a very transparent process, and again, to ensure you understand what the U.S. Department of Agriculture has proposed for a possible Federal Order in California.

So what are our next steps? First of all, and most importantly, comments are due to USDA at the regulations.gov website on May 15th. Again, all comments are due on May 15th. In these comments, you can indicate any areas on which you feel

USDA needs to make revisions to the recommendations that you have, that we have put forward for you. If there are things that you feel we did not address, you can also add those in your comments.

What we will do, is once we receive those comments, we will analyze them and we'll determine if we need to make any further revisions to the Recommended Decision. If we also receive requests to terminate the proceeding, we would look at addressing that as well. Primarily, though, we would anticipate comments on making revisions to what we have proposed.

Once we analyze those, then USDA will issue a Final Decision. That is a very key document. We are delighted to see all the producers sitting in the room and all of the processors, because this is the decision that will be very important to you. This will be the provisions that the producers will be voting on to determine whether or not a California Federal Order will become in existence. That decision will be voted on by producers who have been determined to be associated with the Federal Order.

As I have mentioned on several occasions, though it's important to note again, a California Federal Order will be approved if two-thirds of the producers voting on the Order approve the Order, or producers who are voting that represent two-thirds of the volume of milk associated with the Order.

Again, we will make a determination on the producers who will be allowed to vote. These will be producers who will be associated with the Order. It may include individuals located outside the State of California who are participating, or would be participating, in the California Order. We will either conduct individual ballot referendums or we will do bloc-voting of the cooperatives.

In order to bloc-vote, a cooperative must be qualified on a Federal Milk Marketing Order. If a coop is qualified -- and in order to be qualified they need to submit information to USDA and we'll make that determination -- the cooperative can vote on behalf of all of their members. If the cooperative is not qualified, then the individual members of that cooperative will be allowed to vote. Producers who are voting will be voting on the entire Order as it is defined within the Final Decision that will be issued.

One additional item that was included in the Recommended Decision has to do with the Paperwork Reduction Act Information Collection. That's a mouthful. And basically, in very simplistic terms, this is a process of that we must go through with the Federal Government in order to create forms where we would be collecting information. The forms are the same that would be utilized in the other Federal Orders. This is a process that must be completed. The comment period on the Paperwork Reduction Act forms is April 17th. The rules that apply to it are slightly different than the rules that apply in a Formal Rule Making Process, so there are two different comment periods. April 17th is the opportunity to submit comments on the forms. Again, the forms that we are seeking approval for would be the same forms that are used in the other Orders. We have to go through this process even though we don't know what the end result is, but we're required to do this so that we will be prepared to implement an Order if it is approved by producers in California.

As another side note. For those of you who follow the Federal Register religiously, and there are a few of them in this room, there also will be an information collection notice regarding the producer referendum, and that will be coming out in the future. I just didn't want anybody to be supplied if they see another Federal Register notice regarding the process of voting here in California. Again, it's a standard process that we're required to go through.

So these are the key addresses that you will want to make note of, and are on the business card that we had printed for your convenience. The regulations.gov site is where you need to be submitting the comments that you have on the Recommended Decision. And you can get to that site by going on the USDA AMS Dairy Programs homepage, you will find a California Order section. You go to that section, there will be a link to get you to regulations.gov, as well as all of the information regarding this proceeding.

Again, the most important date for you is May 15th. And if you want to provide comments on the Information Collection -- April 17th.

So now that we have all of this preliminary stuff taken care of, I want to go through the question process one more time.

First of all, you have questions, write them on the index card. They will be read and they will become part of the transcript. If we have a series of questions that are related, we will combine them and enter them as a collective question on the hearing record transcript of this meeting. And we will indicate if we're unable to answer any questions due to various reasons that we have set forward previously.

So with that, I would like to move on to the most important part of this meeting. And I would like to ask Ms. Erin Taylor to come forward, as she will be going through in detail the proposed California Federal Milk Marketing Order. Erin?

MS. TAYLOR: Good morning. I echo Dana's comments that it's nice to see you all here back in Clovis. When I was flying back here yesterday, it brought back so many memories of a year ago.

So I am the lucky one who gets to attempt to explain, orally, what was in the Final Decision, what are the Order provisions that we have proposed. I do want to let you know that, first, this presentation will go up on our website probably next week. So you can refer back, you will be able to see these slides later. And if you have questions on any particular -- I'm sure you will -- slide, we do have slide numbers that you can write down so you can easily come back to the slide maybe where you had a question in the question and answer section.

So we're going to first deal with quota and how the Final Decision proposed that the Federal Order would recognize quota. So we propose that the California program remain separate from the Federal Order, almost completely separate. CDFA would continue to maintain and administer, in the course of program, independent of the Federal Order, however they deem appropriate with their statutory authority. And how the Federal Order would recognize quota, as was provided in the Farm Bill, would be through an authorized deduction in payments due to producers. Okay? And I'm going to get into that in just a second. That authorized deduction amount would be determined by CDFA in whatever amount they determine needed to run the program.

Okay. So currently the Quota Program is producer funded. Currently how it works is, CDFA pools all the money in the market for the month, takes off the quota value off the top of that pool, and then determines that the overage price, and pays that out to everyone, and then you get your quota price. But the money that comes to pay the quota is producer funded.

How it would work in the Federal Order system is, quota would continue to remain producer funded. And CDFA, instead of taking an aggregate amount from the pool, or instead of a Federal Order taking the aggregate amount from the pool, CDFA would announce a per hundredweight deduction that would stay on all milk that CDFA determined was part of that Quota Program, and that would be used to fund the Program, to pay out your $1.70.

The Federal Order would authorize the handler to deduct that money from a producer's paycheck and that would not violate our minimum payments to producers. So, for example, if your blend -- if the blend price that California Order announced was $17.00, and CDFA announced that for that month they needed -- and this is just a random number -- a $1.00 from every hundredweight of milk pooled, every hundredweight of milk eligible to participate in the program to fund the $1.70 to pay out quota, a handler pooling milk on the Order would be able to deduct $1.00 from the minimum payment to the producer to fund the program. It would not violate the minimum payment to producers.

Right now, this will -- as the Federal Order would operate, we enforce that minimum payment. And we tell the handler, we would tell the handler, you have to pay that minimum price. This would allow that authorized deduction to come off of that minimum price. Okay? And so that money, CDFA would have to determine how to collect that money, the Federal Order would not collect that money. And CDFA would determine how that quota money would be disbursed to the quota holders.

We understand there would be a lot of, need to be a lot of communication between USDA and CDFA to make that work, and that's something that we can undertake later, but how it would be collected would be under CDFA's authority. We would just allow a handler to take that quota deduction out of the producer's paycheck, and it would not violate the minimum payment to that producer. Okay?

Another important point. A handler's pool obligation would not be impacted by any quota milk they received. A handler would still have to account to the Federal Order pool at their minimum classified use value.

I'm looking around to see if that's making sense to everyone. Okay? So they would still account to the pool then on classified prices, it would just go to account for then how they paid the producer's on that pooled milk. The Federal Order can only allow that authorized deduction on pooled milk. We have no authority over milk that is not pooled. So it would be, only be on the milk pooled during that month where we would authorize that deduction. How that money is collected from milk that is not pooled is, again, up to CDFA to determine how to do that.

Exempt quota is part of the California Quota Program, and so CDFA would also need to determine how exempt quota would be recognized.

We're going to move to the next topic. Do you think we covered quota pretty well? Okay. So that's how we are going -- how we proposed that quota would be recognized in the Federal Order Program.

Now we'll get started on the explaining the Federal Order and how it operates, and we will later then describe how that authorized deduction would have impacted when we talk about producer payments.

So first we'll talk about definitions in the Unform Provision. All Federal Orders contain a set of Uniform Provisions, we often refer to these as Part 1000. They define entities affected by Federal Orders, the common terms used by all Federal Orders, and basic Federal Order principles that go throughout the entire system.

Under the proposed California Order, the marketing area would be the State of California. Route disposition is something that is used, a term used to determine qualifications for pool distributing plants we will talk about, and route disposition is fluid sales in commercial channels, and that's how we determine the regulatory status of distributing plants.

There is terms for a plant where a milk or milk products are received, processed, or packaged. A plant will include in the unit, all land, buildings, facilities, and equipment. A distributing plant is a plant approved to handle or process packaged fluid milk. They have to be Grade -- have Grade A status that is determined by regulatory agency. And a supply plant is a supplier of bulk milk for the fluid market, and it's pretty much any plant other than a distributing plant. And it receives fluid milk products or it transfers fluid milk products to other plants.

A pool plant, and this is where we get into terms of what milk will be pooled and what milk will not be pooled. A pool plant is a plant that serves the market, and the degree of its service is defined in the pool plant definition, and we refer to that as pooling standards. When we go over pooling standards, we'll talk about the proposed performance based pooling standards, and that is how we determine the degree of service that they have shown to the fluid market. And the pool plant standards determine which plants are eligible to participate on the Order.

A nonpool plant is a plant that receives, processes, and packages milk. It doesn't meet the pool plant standards. Nonpool plants can receive pooled milk, but they are not responsible for minimum payments for that milk.

And we also have exempt plants, which are typically small plants that have minimal distribution in the marketing area of no more than 150,000 pounds a month, or plants that are operated by a government agency or college or a university. They are exempt from the pricing and pooling regulations. They would be exempt from the pricing and pooling regulations of the Order.

So Federal Orders regulate handlers, not producers. We pool producer milk, but we regulate handlers, and it is the handlers that pool that milk that is responsible for payments on that milk. A handler is a person who buys milk from the dairy farmer. It can be an operator of a pool plant; it could be a Cooperative association that markets milk and diverts milk to nonpool plants; it could be an operator of a nonpool plant; or we have another small paragraph, like a broker or a wholesaler would be considered a handler on that milk.

In the California Federal Order we have proposed the Uniform Producer-Handler provision that is the same in all Federal Orders. It's a person who operates their farm and distributing plant at their sole enterprise and risk. They have Class I fluid sales of no more than 3 million pounds per month, and they are allowed to purchase up to 150,000 pounds of outside milk per month. The 3 million pounds is a hard cap. If you or a producer, if you have route sales of 3.5 million pounds, then you would not be considered a producer-handler anymore, you would be a regulated plant. So it's a hard cap, not a soft cap. I think in California now it is a soft cap.

But it's a hard cap and you would not meet the producer-handler definition.

Producer-handler definition. Producer-handler determinations are made by the Market Administrator. You have to apply for a producer-handler status on the Order, and that determination would be made by that Market Administrator.

A producer is a dairy farmer that supplies Grade A milk for fluid use, and producer milk is milk eligible for inclusion in the marketwide pool. Both the producer and producer milk have their own definition within the California Federal Order, and they, along with the pool plant standards, are considered the pooling standards, and they define what plants are pooled, what producer milk is eligible to be pooled, and what producers can have their milk pooled on the order.

Classification. We propose Uniform Federal Order Classification Provisions and that ensures the handlers have a same minimum regulated costs of raw milk based on their use. Up here is a comparison, general comparison, of the current California State Order classes and the proposed Federal Order classes.

Class I is fluid products; Class II is used to make soft products, like cream cheese, high-moisture cheese, and ice cream, and yogurt; Class III is spreadable cheese, like cream cheese and hard cheeses; and Class IV is used to produce butter or your powders.

We also have a fluid milk product definition that's used to determine Class I products. It's any milk produced in fluid or frozen form intended to be used as a beverage. In the Federal Order system we have specific standards that, for fluid milk product. It's a product with less than 9% butterfat and either 6.5% or more nonfat solids, or 2.25% or more true protein. Either of those in the third bullet and the second bullet it's the fluid milk product.

All classification determinations are made on a product-by-product basis by the Market Administrator. So a handler would work with the Market Administrator to determine what product classification their own product would fall under.

Classification of shrinkage. This recognizes there is some loss in processing. Shrinkage is basically the difference between what comes in the plant versus what goes out of the plant, and it's allocated to the lowest priced class during the month. Shrinkage allowances are uniform between all Federal Orders and are uniformly applied to all plants.

Milk received at a plant on the basis of farm weights and tests is allowed up to 2% shrinkage allowance. Milk received based on other than the farm weights and tests has an allowance of up to 1.5%. Plant loss in excess of this allowance would be allocated to the highest class of utilization at that plant.

Pricing. We're going to talk handler pricing and then we're going to talk producer pricing. So first we'll talk handler pricing. Handlers who account for minimum classified prices based on their use. All classified prices announced by the Federal Orders are announced at a 3.5% butterfat standard, and each classified price generally consists of three factors; a commodity price, a manufacturing allowance, and a yield factor.

In the California Federal Order we proposed that the make allowances would be uniform with all Federal Orders -- and they are up on your screen -- $0.2003 per pound for cheese, $0.1715 per pound for butter, $0.1678 per pound for nonfat dry milk, and $0.1991 per pound for dry whey.

Commodity prices. The Federal Order system uses the Dairy Product Mandatory Reporting Program for prices that are going to get commodity prices used in the formula. It's a survey of plants producing cheddar cheese, butter, nonfat dry milk, and dry whey, and each of these four commodities have specific specifications in the program in order to be included in the survey. There is an exemption for plants producing and marketing less than one million pounds of product a year. In California, plants already participate in this survey. Those prices are collected on a weekly basis and they are announced in the National Dairy Product Sales Report, and it announces the current week and the previous four weeks, announces five week's quota of prices. And the link at the bottom, and this will up on the web, will provide to a website, it goes to the Dairy Mandatory Reporting Program page where you can view price announcements. And this is an example of our announcement that went out in February 15th. This is just the first page, it shows the butter price. It shows the butter price here for January 14th up until February 11. And these are the prices that are used to come up with the monthly weighted average to go into our formats.

Those prices that would be on the announcement on the last page feed into our Federal Order component prices. Handlers pay component prices and producers would be paying on component prices. So we use the weekly survey pricing of commodities and feed them in to figure out the component values.

The first letters in green is the National Dairy Product Sales Reporting Butter Price for the month; the red numbers are the make allowance to the applicable component; and the blue numbers are the yield factor. And those component values then feed into our classified prices.

Class III and IV prices are proposed to be uniform with the Federal Order system. Classified prices are announced on or before the 5th of the following month. For example, February prices will be announced on or before March 5th, and they are announced at 3.5% butterfat.

The Class III price considers three components: The protein price, the other solids price, and the butterfat price. And the Class IV price has two components: The nonfat solids price and a butterfat price.

Class II prices. We announce half of it before the month and the other half after the month. The Class II skim price is announced before the applicable month, and it's based on the advanced Class IV skim milk price plus the $0.70 differential. That skim milk price is based on the nonfat solid price, and that's announced on or before the 23rd of preceding month. I know these are a lot of dates, at the end I do have an example of when all the price announcements will occur so you can have a better idea.

The Class III butterfat price is announced at the end of the month, on or before the 5th of the following month, and it's the Class IV butterfat price plus the $0.70 differential.

Class I prices are announced in advance by the 23rd of preceding month. It's the higher of the Class III or IV advanced classes III or IV price, plus the Class I differential.

The map up there shows the differential structure throughout the United States. California Class I differentials range from anywhere from a $1.60 to $2.10. And differentials are based on plant location. So the differential applicable to the plant is based on where the plant is located, it is not based on where that plant has sales. So that is the differential that would apply to a plant that would be fully regulated distributing plant in the California Order.

This is an example of advanced pricing factors for February that was announced on January 19th. This also can be found at that Dairy Mandatory Reporting link on the previous slide, and it shows you all of the advanced prices that we announced. Continuing product price averages, that's what we use in our advanced prices. At the bottom there's some diesel prices that are applicable for those -- for some of the Marketing Orders.

And this is the announcement of Class I component prices, but it is now after the month. But it has the remaining prices, Class II through IV that are applicable, these would have been January prices that were announced on February 1st.

All of these announcements come out through the AMS Headquarters Office Market Information Branch in D.C. and are applicable to all Federal Orders and would then be applicable to the California Order out here.

We'll talk a little bit about fortification. The California Order proposes Uniform Federal Order application of for how fortification would be. It's a two-step process. For nonfat dry milk or condensed milk that is used to fortify Class I products, that would be classified as a Class IV product, the actual product that you use to fortify.

The volumetric increase in your Class I due to adding that extra product would be classified as Class I. It is different than how it is currently done out here, but this is how it is done in all other ten Federal Orders, and how it is proposed to be in California. You pay Class IV for the actual product that you use, then you pay Class I on whatever volumetric increase is due to that fortification from adding that product in.

So pricing for producers. Handlers paying classified prices based on the components in that milk that they receive. Producers receive prices based on the components that they produce. They are paid for, you would be paid for pounds of butterfat, protein, and other solids in your milk pooled at the Class III value.

In addition, you would be paid a Producer Price Differential -- we refer to it as a PPD. This represents a producer's share in the other classified values of milk in the market, I, II and IV. Okay?

Under producer paycheck, I'll get into PPD again on another slide so we'll come back to that. Also on the producer's paycheck there would be an authorized quota deduction. This would be a line item on your milk check. It would say, for this month the authorized quota deduction determined by CDFA is $1.00, and then it would show you the gross value then based on however many hundredweights of milk your milk that was pooled during that month. If you are quota holder, it would not reflect payments that you received for quota, that's something that needs to be determined how to -- that needs to be determined by CDFA, but it will show the authorized deduction. Okay?

Another thing is that producer's value, producer's milk is priced at the location of plant of first receipt. So we'll get into this. We announce blend prices at a principal pricing point, but if you deliver to a plant that is in a different zone -- a different zone, then your price on your check would reflect that adjustment, and we'll explain that in just a few more slides. But it is adjusted for where you deliver your milk. Your milk is priced at the plant of first receipt.

So Producer Price Differential. There is always a lot of talk about positive PPD and negative PPD, so I'm going to try to explain it as simply as humanly possible. You would be paid at Class III component values, okay? If the value of the total pool is greater than whatever the Class III value was for the month, your PPD would be positive because there's extra money that you weren't paid out for your Class III component values. If the value of the pool is lower than the Class III components that you would pay out, the PPD would be negative.

Now, here's the important thing to remember. This occurs because of the way prices are announced. So Class I prices announced before the month; Class III prices are announced after the month. If component values increase during the month, you could have Class III component values that you are actually paid out of be higher than what the Class I values that they were priced at before the month. So if component values increase during the month, it can result in a negative PPD, but, in essence, your component values are worth more. I think I'm going to have to show you a slide at the end to kind of explain that.

So the Order's blend price would be announced at a principle pricing point $2.10 a hundredweight for Los Angeles. But, again, your milk is priced at -- it would be priced at the location of first receipt. So if you're a producer and you delivered to a plant that was located in the $1.60 zone, your paycheck, your producer price would be the announced blend price -- whatever that is -- minus $.50 to show that differential, that difference. So if the announced blend price in L.A. is $17 but you deliver to a plant in a $1.60 zone, the price applicable to your milk would be $16.50.

If you deliver to a plant in a $1.80 zone, the price of your milk that you would receive would be $16.80. That would be the minimum price applicable to your 16 -- yeah, times $.30 -- thank you -- $16.70. So milk has a value at the location of first receipt and your price would reflect that.

And, again, an authorized quota deduction will be applicable on milk qualified to participate in the Quota

Program.

Pooling standards. These determine -- these are tailored to the local marketing area and they are contained in the pool plant, the producer, and the producer milk definitions. Pooling standards for the California Federal Order would be performance-based, and they are designed to encourage service of the Class I market. So the plant standard determines plants eligible to pool their milk supply, the producers eligible to have their milk pooled, and producer milk eligible to be pooled.

Pool plant standards define what plants serve the fluid needs of the marketing area, and we have two types of pool plants; pool distributing plants and pool supply plants. It is the pooling handler that is responsible to account to the marketwide pool for classified use value and to pay minimum prices to producers for the milk that is pooled. Pooling is a monthly decision. Whatever milk the handler chooses to pool during the month, for those that have the choice, they would account at classified use values and pay the minimum prices to producers. For milk not pooled, the Federal Order has no restriction of that milk and cannot enforce any minimum payments.

So for pool distributing plants. Pool distributing plants are fully regulated. These plants process Class I fluid products, and the pooling of milk at these plants is required.

Is mandatory. Plants that are pool distributing plants must have a minimum of 25% of their total milk receipt is disposed of as route disposition for their packaging of fluid milk products and are sold in commercial chains. Of their total route disposition, 25% of that must be within the marketing area. If they meet that standard, so they have at least 25% of their milk packaged in Class I products, sold in commercial channels, and of that, 25% is in the marketing area, they become a fully-regulated pool distributing plant, and all milk at that plant must be pooled, which means they pay classified values for that milk and they pay minimum reserve prices to producers.

We also have a provision for Ultra Pasteurized or aseptically processed fluid milk product. Plants producing these are called ESL plants. These plants are actually regulated if they are in the marketing area. Pool distributing plants, they could be anywhere. There's no requirement that they must be in the marketing area. However, if a plant producing these products, if they are located in the marketing area and process at least 25% percent of their fluid milk products into aseptic or ultra pasteurized products, they are located -- they are regulated as a fully-regulated plant in the California Order. So they are located based on -- they are regulated based on where they are located. Other plants are not regulated based on location. It's based on where they have sales.

The pool distributing plant standard has what's called a unit pooling provision that is also in many Federal Orders and allows for two or more plants located in the marketing area, operated by the same handler, to qualify as a unit for pooling classes -- for pooling the milk associated with that -- those plants. So one of those plants has to qualify as a distributing plant and the other process, it could be two or more plants, the others process at least 50 percent of the receipts in Class I or II products. So they can work together to meet the unit pooling provision as one reporting entity. The plants do not have to meet the standard separately. You have to -- the handler would need to apply with the Market Administrator to get within the pooling bracket.

We also have what's called partially regulated distributing plants. These are plants that have some Class I sales in the marketing area but do not meet the definition for fully-regulated distributing plants. But these plants still have some reporting and payment obligations to the pool for the milk that they sell in the marketing area.

For fully-regulated plants, if they meet that standard, they have to account to the pool for all the milk associated with that plant. Partially-regulated plants, if they are a partially-regulated plant, they only need to make a payment obligation for the milk sold in the marketing area.

Okay. Plants not subject to a State Order with classified pricing in the marketwide pooling have two options for accounting to the pool. They are called .76(a) and .76(b). .76(a), they would pay the difference between the Federal Order Class I price and the applicable blend price. The difference would be paid into the Federal Order pool for the sales in the marketing area.

.76(b), which is referred to as a Wichita option, allows them to pay the difference in whatever the utilization value of the plant is in what they pay producers. So if they can show that they pay producers whatever the aggregate utilization is at their plant, all that value, then they would not have a payment into the pool. Okay? If they didn't pay the producers that amount, then they would pay the difference into the marketwide pool, which would then be shared by all producers through the blend price.

For plants subject to a State Order, they would pay the difference between the applicable state price on that product and the Federal Order Class I price only for Class I sales in the marketing area. Again, this is the -- it also has exempt plants which is found in the pool plant definition, that say what pool plants are and these are what pool plants are not. So exempt plants are plants that have very minimal route disposition in the marketing area.

Then we have pool supply plants. These plants will process Class II, III, or IV products. They demonstrate some service to the fluid market by supplying Class I plants, and pooling of these plants are optional. The plants show their service, their willingness to supply the fluid market by delivering at least 10% of their total milk receipts from producers to distributing plants, whether that's fully regulated plants or partially regulated plants. Once they meet that standard, then the milk associated with that plant can be pooled.

We also allow, we have unit pooling for distributing plants to allow them to work together to meet the distributing plant standard, and we have system pooling for supply plants. It allows two plants located in the marking area to meet the shipping requirements as a single entity. So one plant could ship enough milk to a distributing plant to qualify both plants on the system. Again, to utilize that provision you have to notify and apply to the Market Administrator.

Plants that do not meet these standards would then be considered a nonpool plant. If a plant did not ship 10%of their milk receipts to a pool distributing plant, they would not be a pool supply plant, they would be considered a nonpool plant. They would not be associated with the California Federal Order and they would have no minimum regulated payment obligation.

We also have provisions for Cooperative handlers. We refer to them in the Federal Order system as 9(c) handlers. Cooperatives can be the pooling handler. Remember, the pooling handler has two accounts to the marketwide pool for minimum classified value and who pays their producers the minimum blend price.

The cooperative can be the pooling handler for milk that they market. That could be the milk of their members or that they -- that could be milk of independents for whom they market their milk. They would pay minimum classified use values for the raw milk that they pooled, they would have to pay minimum blend prices to the nonmember producers that they wouldn't be allowed to reblend payments back to the member producers.

Cooperatives can deliver milk to a pool plant. Either the cooperative or the pool plant handler can be the pool handler and must notify the Market Administrator.

Cooperative milk delivered to a nonpool plant. The Cooperative can choose to pool that milk and would be considered the pooling handler, and under that scenario, the nonpool plant has no minimum regulated price obligation. The Cooperative would have that obligation.

So in the Federal Order system we can look at cooperatives under the Handler Act and the Producer Act. So under the Handler Act, if the coop services the nonpool plant, they can opt to be the handler on that milk and pool that milk, and then they would pay minimum prices on that milk. But in their capacity as producers, once the Cooperative receives the draw from the pool, whatever milk they choose to pool that month, the Federal Order would consider the producer paid for their member milk, and that's why they can be pooled.

If they are pooling nonmember milk, the payment to the nonmember would be enforced. But to their members, you consider the producer members paid, the Cooperative is the producer, and the Cooperative can then reblend their monies and distribute that back out to the members.

Nonpooled plants are not the pooling handler. Again, not responsible to pay classified prices and they are not responsible to pay minimum blend prices to producers. They can receive pool milk. We did have a question come in in regards to whether or not they can receive pool milk. They can receive pool milk, but they would not be the pooling handler. That pool milk could be supplied by cooperatives and the cooperative can be the pooling handler or it could be diverted from the pool plant and that diverted handler could be the pooling handler on that milk, not the nonpool plant. That diverted handler would be the pooling handler on that milk. Not the nonpool plant, but the diverting pool plant handler would be responsible for that.

So we have pooling standards for producer. Producer has to qualify to be eligible to participate in the program and the pooling standards for producers lay out what those standards are. It is: Producer must produce Grade A milk, it must be received at a pool plant, or diverted by a pool plant to nonpool plant, or received by a cooperative handler.

Out-of-state producers would be eligible to participate in the California Federal Order by meeting the standard. So if an out-of-state producer shipped milk out of California, to a California pool plant, they would be an eligible producer in the California Federal Order and their milk could be pooled.

So the producer has to qualify, but then the milk has to qualify. So the producer milk standard lays out that qualification. It identifies the milk that producers that is eligible to be pooled. So the milk must be received by a pool plant or cooperative handler.

To divert producer milk to nonpool plants, producer milk can be diverted once it meets what we term a touch-base standard. In the proposed California Federal Order, that proposed standard is one day's milk production must be physically received at the pool plant during the first month. So once a producer delivers one day's production to a pool plant anytime during the month -- it doesn't have to be the first day of the month, anytime during the month -- then their milk from then on out can be diverted to a nonpool plant, and all of the milk associated with that producer could be priced and pooled under the Federal Order. And how we determine --

how we determine one day's production, just so you know -- it's the total milk that producer marketed during the month divided by the days in the month, to make it easier.

Diversions and decisions are made by the pooling handler. And in the California Federal Order it is proposed that diversions can go to plants located in California, Arizona, Nevada, and Oregon. So milk could be diverted to nonpool plants within the state, but milk could also go out-of-state to nonpool plants, and that milk that was delivered to that nonpool plant as a qualified diversion, could still be priced and pooled under the California Federal Order.

Diversions are limited -- would be limited to 90% of all milk receipts pooled by the handler. So a handler must deliver at least 10% of their milk to a pool plant, and the other 90% could go to a nonpool plant, and all of that milk would be priced and pooled under the Order. The actual Order language says that diversions are limited to 100% minus the shipping standard, but the shipping standards propose 10%, so in practice that would be 90%. Should that shipping standard change later on, then the diversion limit would change automatically.

The California Order would also contain some repooling limits as in some other applicable Federal Orders. As we said, pooling is a monthly decision, it is not a yearly decision. It is a monthly decision made by the pooling handler. And the pooling handlers are limited in the amount they can pool based on the previous month's decision to pool milk.

In the California Federal Order, April through February the handler could pool 125% of the previous month's pooled volume. In March, it's 135% because of the fewer days in February. Milk that went to distributing plants in excess of that standard would not be subject to the repooling limits that class of milk would be required to be pooled, and not subject to those limits.

The California Federal Order has some flexibility that would be built into it for the Market Administrator, like in any other Federal Orders. The Market Administrator will have the flexibility to address supply plant shipping standards, diversion limit standards, and to waive the pooling limit for new handlers on the Order or existing handlers that had some significant change in their milk supply. So in a normal Federal Order hearing process, to make any change you have to go through this rule making process, which we're doing for this proceeding, and that can be lengthy. So for some things, the MA is granted flexibility to make adjustments. But before a Market Administrator could do that, they have to conduct an investigation and they would ask for industry input on whether that change should be made. So it's never done just with the, you know, signing of a memo or something like that. We always would ask for industry input.

So a Class III handler that was not previously pooled could choose to become a pool plant and pool their milk by shipping 10% to a distributing plant. And during that first month, they would not be subject to the repooling limits. Months going forward they would be subject to those limits, but during the first month they would not.

The Federal Order also contains order assessments, so in the California Federal Order there would be an Administrative assessment of no more than $.08 a hundredweight. That assessment is paid by the pooling handler on that milk. And there also would be a marketing service assessment of no more than $.07 a hundredweight, and that is paid by the producer who is not certified as a Cooperative. These are services that the Market Administrator would provide, such as weighing and testing of producer milk and market information should weighing and testing not be provided by the Cooperatives for their members or by independence throughout the section on how the Cooperatives' providing a service for them.

So this is a listing of the reporting and payment dates that we kind of went over. Advanced prices are announced -- these are all on or before, but that was a lot of words -- all on or before the 23rd of the previous month. And the final prices are announced the 5th of the following month.

And I think the easiest -- the next one I put is an example, so this is for January. Okay? In January, advanced prices were announced on or before December 23rd. January 31st, a partial payment was due to producers for the first 15 days of the milk production, and that had to be, in the Federal Order system, partial payments must be not less than the previous month's lowest class price. That's a partial payment.

On February 5th the Federal Order, I believe, announced final classified prices. On February 9th is when a handler would report their receipts in the utilization. This is when the handler makes the decision on what to pool or not -- elects to pool or not to pool, it would be on the 9th for those plants that have that option. Remember, Class I plants do not have that option, so they would report all the milk associated with that plant.

On February 14th, the Federal Order would announce producer prices, that's when the blend price would be announced. It will be, as proposed, announced at the $2.10 L.A. zone.

On February 16th, a handler would make payments into the Producer Settlement Fund. And on the 18th, the Federal Order would make payments out to the Producer Settlement Fund to those handlers who have received a draw so they could pay the producers.

And on February 19th, final payment would be due to producers for the January milk.

In the Federal Order system, payments to Cooperatives are due one day earlier so that the Cooperatives can pay the milk, pay the producers for the milk that they market.

If the date falls on a Saturday, Sunday, or holiday, it is then moved to the next business day. So that's an example.

Okay. That's actually all I have.

MS. COALE: Okay. So you didn't know you were going to a college class on Federal Orders today, did you? Hopefully through Erin's explanation, you were able to gain a better understanding of what has been recommended in our decision by the U.S. Department of Agriculture. Again, here is the information on submitting comments; regulations.gov is the place that comments should be submitted, and they need to be submitted by May 15th.

One of the other documents that I would like to take a moment to reference is a Regulatory Economic Impact Analysis of the Recommended California Federal Milk Marketing Order. We have this analysis posted on our website, so, again, if you go to the USDA AMS Dairy website, you will find a section of California. This Regulatory Impact Analysis is posted there. We are also asking for comments on the assumptions that were used in the Econometric Model that determines the projected impacts and growth in changes in prices for both producers, processors and consumers. We will not be entertaining any questions today on the Regulatory Impact Analysis, that is just available for your reference. Again, we will be taking comments on that to look at the assumptions. The documentation on that Econometric Model is also posted on our website, and I would encourage you to take a look at that as well.

The comments on the Econometric Analysis should be submitted to Californiainfo@ams.usda.gov.

Now, we realize we have thrown a whole lot of information out there for you to process, and I am certain that there are many questions that you are processing in your mind, or attempting to process to figure out how you might pose those. What we will do at this time is, we will take a 30-minute break to give you an opportunity to converse with your colleagues, make certain that you understand, or if you need clarification, you take an opportunity to write down those questions. Michael, Cliff, and Melissa will be walking around, please feel free to give those questions to them. And we will return in 30 minutes to reconvene and answer those questions. So I believe that should be around 10:45.

So, Erin, thank you very much for your presentation. For all of you, thank you for listening to that, and we will go on break now and reconvene with answering the questions in 30 minutes.

(Whereupon, a break was taken at 10:15.)

(Back on the record at 10:52 a.m.)

MS. COALE: We will go ahead and reconvene our public meeting. Again, we're here to explain the how's and the what's of the Recommended Decision regarding a California Federal Milk Marketing Order.

We are delighted that we have a whole stack of questions. And it may sound a little bizarre, but that's exciting to us, because that means you all were listening. The other really cool thing about the questions is, they are all different. Nobody repeated questions, so that is a very good thing as well. So I think through the questions that we have here, and the ones that you may continue to submit, we'll be able to address and answer the issues that we haven't been able to clarify yet. Again, be certain if you have questions as we continue through, to ask them, to continue to ask them. It's very important, as I have mentioned before, that you understand what has been proposed, because this is what impacts your industry and we want to make certain you understand. So continue to ask the questions.

This will also help in the comments that are submitted on the Recommended Decision to USDA because hopefully we can get our comments focused more on the heart of the issues in the areas that you may believe, or want to seek revisions to, rather than questions relating to general operations and the how's and the what's.

I do want to go on the record and compliment Erin Taylor. I think she did a fantastic job being our professor this morning, explaining a Federal Milk Marketing Order. For all of the producers in the room and processors who are not familiar with the Federal Order, she did a great job of giving you a 101.

In the dairy world, in Washington there are very few people who understand Federal Milk Marketing Orders, but you are privileged today to have at least one of them here, and that's Erin. So Erin, thank you very much for that.

(Applause.)

So we were going to attempt to put these questions together in some kind of order, but that's not going to work. So the questions are going to kind of be a hodge-podge, jump-all-around. I do apologize for that, but hopefully you will be able to follow through with where we're going on our answers and how we are addressing them.

So the first question out of the box: Is CDFA an interested party in this proceeding? And, if yes, does that mean all communications with them and USDA are subject to the same rules as they are with private entities?

And this is a great question to start out with. Yes, they are considered interested parties. We are not able to have any conversations with CDFA. As Candace mentioned in her opening comments, they saw the Recommended Decision on February 14th when we issued it. So we are not able to have any off-the-record conversations with CDFA, that is why they are here today, just like the rest of you, attempting to gain a better understanding of what it is that USDA has proposed in their Recommended Decision. They will be able to take this information back and use that for any further determinations that they need to make with regards to the Quota Program. So we did not have conversations with CDFA. While it may be easier if we did, it is not allowed under the regulations that govern this rule making process.

If at any point I ask the question, and it might be your question, and the answer we give is not on target or doesn't answer the question, if you want to raise your hand, we can try again to further clarify that, or you can submit another question, but we'll try and make this as smooth as we can.

The next question. Can CDFA give a proposed timeline for determining the quota guidelines?

And in my conversations with CDFA regarding whether or not they had a timeline, and if they can indicate when they might be issuing a decision on quota, what they have indicated is that it is a top priority for the Department, that everyone is aware that this is an issue that they need to discuss and they need to make a determination on. But at this point, I do not have any defined time period to give you as to when they will be issuing a decision on how they may handle the Quota Program.

The next question, I'll throw it out to our panelists.

At the table we have Erin; Bill Wise, Market Administrator with Arizona, Pacific Northwest; and Cary Hunter with the Southwest Market Administrator.

Just to be clear, USDA is not requiring quota contribution on nonpooled milk, but leaving this determination to CDFA; is that correct?

MS. TAYLOR: I will agree, but term it a little differently.

The Federal Order will not require any contribution. Period. We would allow a handler to deduct from its payments to producers, whatever CDFA determined they needed to fund the program. But that deduction in the Federal Order will only apply to pooled milk, because that's the only milk we have authorization to pool and we have authorization to enforce payments. So we would authorize that the handler could take off whatever that deduction is, and they would not violate the minimum payment to that producer.

MS. COALE: Thank you, Erin.

The next question: Can you describe what effect exporting does to class pricing? For example, if UHD is packed exclusively for export, is it priced at Class I or another price?

MS. TAYLOR: So in Federal Orders classification, there is no different pricing for exports. So in the UHD example, if the UHD plant is located in the marketing area, and 25% of its milk was packaged in Class I products, regardless of where it was sold, that milk would all be classified as Class I.

MS. COALE: The next question: The proposed decision refers to an MOU with CDFA. Will that be made available in advance of the comment period closing?

I will answer that question. No, that will not be made publicly in advance of the comment period. USDA does not frequently post or make available MOU's that we enter into with various parties. So, no. But we do have several MOU's, which is basically a method for which USDA make arrangements and agreements on how various administrative operations will be handled.

Would depooled cheese plants, or non-Class I plants, depooled plants, is it projected quota value will be eliminated?

MS. TAYLOR: So, I'm not quite sure I understand that question, but I will try to answer it in that, as we have proposed, CDFA would operate the Quota Program. And so however they determine whatever amount of money they need to pay quota values -- and in the record, I think the record showed somewhere in the realm now of $12 to $13 million a month. Okay? So that was the case when a Federal Order was proposed. However they determine they, what they needed to collect on a per hundredweight basis from all eligible milk for their program, they would put that on kind of like a per hundredweight deduction. That would be applicable to whatever milk the CDFA said could participate in Quota Program. Right now, as I understand it, that's only California produced milk can participate in the Quota Program. So, but whether that milk is pooled or not pooled, you know, that's up to CDFA to kind of determine back how they would get that money. We are just saying, the Federal Order would just allow a deduction on the milk check for pooled milk. Okay?

Because the Federal Order goes in and the Federal Order says that handler that pooled that milk, you must pay that producer that minimum payment. And that is audited. They have to pay them that amount of money. And they submit producer payrolls to make sure that producers are paid that money. So we are saying they can then deduct off that pool piece and they wouldn't violate that. They would not be in violation of our rules of the minimum payments to producer for that milk.

So it wouldn't matter, because we only can do that on pooled milk, that's what we are authorized to regulate. But if I didn't answer that question sufficiently, raise your hand and try it again, I'm sorry. And we'll try to answer it a different way.

MS. COALE: Okay. Please explain the personally regulated distributing plant provisions. What is the State Order price? If Federal Order 51 gets voted in, there would not be a State Order, hence, no State Order price.

MR. WISE: So the Section 7(c) -- excuse me, 76(c), that applies to a partially regulated plant that's located in the State that has an Order that requires payments. The Order says applicable state price versus the Federal Order Class I price, because we're only going to charge a compensatory payment on what is Class I under the Federal Order. The State may have a different classification system such as maybe buttermilk could be Class 2 under the State, but Class I in the Federal Order, so therefore, the compensatory payment would be the difference between whatever the applicable price is for that buttermilk in the State and Class I under the Federal Order.

MS. COALE: Did you all understand that?

Bill, why don't you try again?

MR. WISE: The State -- in this case, the State and the Federal Order may have different classifications for fluid milk products. The overriding classification for us is what the Federal Order says is Class I, so the State -- whatever the -- so if we say, hey, that's a Class I product being sold in the marketing area, you are going to have to pay at least the Class I price. What did you pay to the State? Did you pay something equal to or more than that? Okay, no compensatory payment. Did you pay something less? Compensatory then is that difference.

MS. COALE: So, I think their question, Bill, is getting at if there is no State Order to compare that to.

MR. WISE: Well, then 76(c) doesn't apply.

MR. HUNTER: But I'll just add -- this is going to be a full discussion here, obviously. So there is other State Orders out there that this provision applies to, it's not just California, if that's what you are getting at.

MS. TAYLOR: It is in the Uniform -- you have to remember when we went over that, it's in the Uniform Provisions that are applicable to all Orders that are in Part 1000. So it would be applicable in California.

MS. COALE: And by the way, the head nodding like this or this is very helpful for me to understand if you are following. We speak this language a lot and we recognize that this is all new for most of you in this room. So continue the head nodding, that would be helpful for us to make certain we further explain.

The next question: Will California keep its current milk standards for fluid milk sold? California, solids nonfat, 8.7%; Federal, 8.25%. California, milkfat, 3.5%; Federal, 3.25%?

MS. TAYLOR: Yes. That's in the State statute so it's not impacted by the Federal Order, and whatever it is in your state law.

MS. COALE: PPD's are also impacted by the volume of milk in the pool and its class value. Please explain how depooling could impact PPD's.

MR. HUNTER: Okay. I guess I'll try that.

So obviously, if you have a -- let's say that we're depooling Class III milk. If your pool has a small amount of Class III, obviously it's not going to have much effect on the price, right? If you had a lot of Class III, it could potentially have a lot of effect on the price because there's a bigger portion of the pool that's weighed toward that Class III. So it's just dependent on how much is in there and what the price difference is between the Class III value and the other classes value in the pool. But obviously, yes, the amount of Class III or IV, whichever class it is that's maybe being depooled would have an impact on it.

And in reality, the market didn't change, but our price announcement could. Okay? So your milk every month goes to the same plants, right? But what we're talking about is how much is actually pooled. Okay? So the plants get to decide that or the handlers get to decide that every month. Your milk still went to all the places it normally does, but if there's depooling that occurs, it's on paper, right? And so in the Federal Order price you would have a situation where, let's say they depooled the Class III, all your Class III in the market, and so you would show a lot of Class I, you know, Class II and Class IV, but no Class III. So you could have an elevated, what it looks like an elevated price, okay? But in reality, all of your producers would be receiving a similar price that you would normally receive because that milk still went to those plants that were be depooled, if you understand that. Okay?

So what's happening in total in the market is maybe not reflected in the price announcement sheet that the Federal Order would put out in this case. So I don't know if that's clear or not.

MS. COALE: Yes? No? No. No. Can we try it again?

MR. WISE: If we go back to Erin's slide where if the total value of the pool is equal to the Class III value of the milk, the PPD is zero. There is only so much money in the pool. Whatever that money is in the pool, that's going out to producers. But the way producers are paid, is first they are paid for Class III value, and if there's not enough money in the pool to pay that, then it has to come out by a negative PPD.

So if, again, so if milk depooled -- as Erin said -- if there's depooled milk and then there's the milk that's left in the pool, well we're taking the Class III value out of the milk that we're pooling, so whatever value that is in relation to the total value of the pool will result in a negative or a positive PPD.

MR. HUNTER: We have a slide in case this happened, and sometimes a visual helps, so we have got a couple examples here.

MS. TAYLOR: This is Cary's slide, I'll let him explain it.

MR. HUNTER: So this is an example of a negative PPD. You can see that we're going to have four classes of milk here, as proposed. And in this example, obviously your Class I value is a little bit more than your other classes, generally. And so -- but it shows that the Class III value in this case is higher than the Class II and Class IV values, right? And so your uniform price is an average of your four classes, right? So when the plants buy milk, they buy on classified value. So your pool is made up of classified value, times the pounds in each class, right? But when we pay back out to the producer, we're paying them first in components. And those components that are proposed are the Class III components. So you got fat, protein, and other solids there that we're paying out to the producers, okay?

So in this case here, the average price was lower than the Class III value, right? So we paid you the Class III value in your three components, all right? But there was not enough money in the pool to do that. Okay? So you have a negative PPD to cover that difference. All right?

So, Erin, go to the --

MS. TAYLOR: Well, I do want to add in. Okay? So you have to remember, Class I milk has to be pooled. The Class I milk is announced before the month at component prices reflected before the month, but your Class III price isn't announced until after the month. So you could have component values your Class I milk is paid on that are here -- low, for those who can't see where my hand is -- but during the month, those component values increase. Well, only the Class I milk has to pool, that's the only thing required. But in the end, all the milk that is pooled is paid on these components, okay? Up here.

So if milk -- milk chooses to depool, there's less, no money coming into the marketwide pool system. You get paid on these higher components, but your Class I only paid on these components, that's what I'm trying to say. Because there has to be some negative in the math so it all pays out evenly. Even though you might be receiving -- you might still be a negative PPD, but your price is high because you are being paid on this higher class and components that happened at the end of the month.

I think this is an example, Cary will explain, where you have a positive PPD.

MR. HUNTER: Yeah we probably should have started there.

MS. TAYLOR: I should have started there but I thought I would keep it interesting.

MR. HUNTER: So normally your classes line up like this, you know, Class I is the higher price, and then Class II, and then III and IV. But as Erin said, because of timing and the way we announce prices, they can get out of whack a little bit in the relationship. But normally what you have is an average price that's somewhere between, you know, your Class I prices and other classes there. And so in this case we have an average price, and then we pay out the Class III value and there's dollars left over. And in this case, there's a PPD of $1.27. So you paid your Class III value, or your Class III components, there's still money left over, we take that dollar, divide it by the hundredweights in the pool, and that becomes your PPD. Okay?

And so the previous example is the same thing, it's just that there wasn't enough money, there was not extra money left over. There wasn't enough money and so we had to do a negative. Okay?

So we really, I guess you could say we almost overvalue your components when you have a negative PPD. And the reasons for that is, like Erin had mentioned earlier, is you have a situation we have already announced Class I price in advance, and then during the month the Class III value had gone up during that month, and so when we announce the component values at the end of the month, they are at a higher value. Okay?

So, generally, in that case, when you have a negative PPD like that, there's a -- it's an indication that milk prices are going up because your component values are going up quick. Okay? So if you have a very large PPD, that's an indication probably that the milk prices are going down.

MS. TAYLOR: I see head nodding yes, so that's a step in the right direction.

AUDIENCE MEMBER: Maybe I'm oversimplifying, but the point I was trying to ask, or sort of pull out of you, was this notion that you can have a case where the highest value milk could actually be Class III or Class IV. Massive inversion, okay? Because everything runs up crazy. As those pounds in those highest value classes come up, what happens to the PPD? That's my question.

MS. COALE: Hold on. Okay. So I think I have got your question is, if the highest value, if we have price inversions and the highest value classes are III and IV, and that milk is depooled, what happens?

AUDIENCE MEMBER: To the PPD.

MS. COALE: To the PPD. What happens to the PPD? Are you guys clear on that?

MR. WISE: Well, I guess clearly the more money in the pool, the higher -- given if the producer milk was constant, more money in the pool you are going to have a higher price. So if the highest value uses are taken out of the pools and those respective pounds are taken out of the pool, they are then dividing a dollar amount that is reduced by not having that higher value use. It's also reduced by not having as many pounds of milk in there, so there's less total dollars in the pool. Whether that results in a less of an average PPD because there's less pounds in there, I don't know. It would be the relationship of what the prices are left in there.

MR. HUNTER: But there's no doubt it does have an effect on the PPD.

MS. COALE: Okay. And you will write that question out so we make certain we got it in. Okay. We're very fluid on this process. Okay.

Are there any other comments you all want to make on the PPD? Did the examples help or confuse? Okay. You don't have to answer that. I see a this kind of motion, so I'll take that as a somewhat helpful.

Okay. Next question: What is the due date for comments on the Economic Regulatory Impact Analysis?

That due date is May 15th, and those comments need to be submitted to Californiainfo@ams.usda.gov. And as our attorney advised us, we will remind you that any of the comments that are submitted with regards to the Economic Impact Statement or comments on the Recommended Decision that are submitted to the regulations.gov will all be filed with the Hearing Clerk and we will take care of that process.

The next question -- I did do a little bit of grouping. Are questions regarding the Economic Impact Analysis, ex parte?

Yes, they are. That is part of the hearing record. And this point in time we are not taking any questions regarding the assumptions, that's why we have asked for comments to be submitted on the Regulatory Impact Analysis. There's a listing of all the assumptions used, and several of those assumptions we did not have full information. So when you are asking questions about pooling and depooling, because that is not part of the California Federal Order, we had to make assumptions on how that, the market would respond to those provisions. So you want to be certain to go in and take a look at that.

There is also information in the Regulatory Impact Analysis on how this proposed Federal Milk Marketing Order would impact consumers in the information on the increased in revenue that would occur across the entire system, and the impacts on all of these Federal Orders. So there are positive impacts to the proposed California Federal Order, and there are other impacts that occur in the other ten orders, and that is all provided in that analysis.

The second question on this is: Will there be further analysis allowed using the Econometric Model that we have?

What we will be doing once we receive input on our Recommended Decision, if there are changes that are made in any provisions contained within the Recommended Decision, we will go in and we will readjust our model to adopt what is proposed in the Final Decision, and then we will issue a Final Regulatory Impact Analysis that will provide the basis of what the impacts of the Final Decision, the final recommended -- the final order that you will be voting on for California, what those impacts are to producers, both in California and in the other ten orders, as well as impacts to processors and consumers. And again, the Regulatory Impact Analysis is on the Dairy Programs website under the California section.

This question refers to Slide 38. Regarding the Wichita option, would that partially-regulated plant still have to pay a pool obligation on milk pooled into the Order, or would the Wichita option be available for all milk purchased by the partially regulated plant?

MR. WISE: As the slide pointed out, there were two options, 76(a) and (b). (a) is just sales in the marketing area, for those who want to blend. 76(b), the Wichita option, we take a look if that plant was fully regulated, which means we're pricing all their milk regardless of class -- okay. Let's take all their utilization, apply the applicable class prices, this is their obligation as -- if they were fully regulated, their obligation is always the class prices. If they were fully regulated, this would be their obligation.

Are they paying at least that amount to their producers in total? If they are, there is no compensatory payment. If they are paying more, they will get a credit. If they are paying less, the compensatory payment would be the difference. So the Wichita 76(b) looks at the plant in its entirety, just like we look at pool price.

MS. COALE: Along that line, how will USDA enforce 76(b) rules for proving plant utilization?

MR. WISE: Certainly one of the key departments in the Federal Milk Order Program is the Audit Department. And so certainly all plants are audited according to what their status is under the Order. So a plant that takes a Wichita option, we would audit them as we audit a fully regulated plant.

MS. COALE: Thank you. How will USDA enforce/audit handlers to verify their obligations to the pool?

MR. WISE: Well, we kind of know if they don't pay us. So if I understand that question, I mean, we calculate the Uniform Price Announcement; we calculate the handler's gross obligation; we calculate whatever they pay or draw into, or out of the fund and we send them a bill. So if they don't pay, we certainly know that.

But maybe -- we -- again, we're going to go in and audit the plant. Sometimes at pool time, you know, we have to go, we're in real time, so we go with best available information in real time, so as Erin had a slide up there about shrinkage and talked about how excess shrinkages is placed at the highest utilization of the plant. If at pool time they have excess shrinkage, we bill them accordingly. If we go in there and audit and we find what the problem was, then they get their money back in an audit adjustment. So we're auditing plant's books and records to verify what their obligation, if any, is is accurate.

MS. COALE: Thank you. Please explain the dairy farmer for other market provisions that are contained in other Federal Milk Orders, but not this Recommended Decision.

MR. WISE: I'll be the lucky guy who has the two orders that have that. I think there's three that have it, Order I, which I can't speak to because I don't administer that Order, but we do have a dairy farmer for other market provision in the Arizona Order and we have one in the Pacific Northwest Order.

The Pacific Northwest Order says, if any milk from the dairy farmer is not pooled under that or some other Federal Order in the current month, then that milk cannot be producer milk under the Pacific Northwest Order. It's a month-to-month thing, there's no, like with this proposal, there's no 125, it is every month stands on its own. So either all of the producer's milk must be pooled under Order 124 or some other Federal Order, or the milk cannot be pooled under Order 124.

Order 131 says that -- sorry, Arizona. The Arizona Order says that if a producer milk is delivered to a plant that only has Class III or IV utilization, that milk cannot be pooled and it will not affect the rest of that producer's milk. If the plant has any Class I or II, and that milk is not pooled, then the rest of the milk cannot be pooled. The idea being that a producer could have access to the higher value uses somewhere of Class I and II and they're not going to share that with the pool if they didn't get the blend prices from the rest of the milk, the Order won't permit that.

MS. COALE: Okay. I have a few people nodding so we're going to move on to the next question.

Will there still be a Grade allowance for milk produced in one area but shipped to another area? Transportation credits.

MS. TAYLOR: The California Federal Order, as proposed, does not contain transportation credits. So there will be no credits on the shipments. Prices change based on where your milk is received.

MS. COALE: What factors are used to determine pay price in the Federal Order system? Component, skim, butterfat, etcetera. Non component Orders. So I think the question is also referring to the fact that there are some skim and butterfat Orders and then component Orders.

What factors are used to determine the pay price in the Federal Order system? And at the bottom they have components. So there are some skim, butterfat Orders, and component Orders. What are the factors?

MR. WISE: The skim or fat Orders, producers are paid on skim and fat. And which is also components, if necessary, all, in essence, all orders are component Orders, but I believe it's in five of the Orders are skim or butterfat, in the other Orders it's protein, butterfat, and other solids.

MS. COALE: Yes?

AUDIENCE MEMBER: I just have a question just like that, but similar to that.

What market forces drive the value of each of these components? In other words, is it the CME or is it some other thing beyond that? How do you come up with the number that drives the component?

MS. COALE: Okay. So question is, what -- how do we determine what those prices are?

AUDIENCE: Yeah. Correct.

MS. COALE: What factors?

MS. TAYLOR: Okay. So those prices are determined through our Dairy Mandatory Reporting Program, and that is a program run by the Agricultural Marketing Service. They survey plants weekly. They have to report. It is mandatory that they report their selling prices and volume to us if they produce one million pounds of product annually.

So if a plant produces cheddar cheese, butter, nonfat dry milk, or dry whey, one of those four products in quantities greater than a million pounds annually, they must report their selling prices to us.

Now, in that program there's a section in the code book that outlines the specifications for the certain -- for those products. For example, cheese is in 40-pound blocks, in 500-pound barrels. There's packages specifications for nonfat dry milk. There is specific specifications for those four products, so it's not just any cheddar cheese, but it is a commodity wholesale prices that they report. And so it is those reported prices that are published weekly in the National Dairy Product Sales Report, and then those averages, monthly averages, four to five week averages are what feeds into our product price form.

And plants are surveyed throughout the country, so it's not a plant that has to be located in a Federal Order area. It's anywhere in the continental United States.

AUDIENCE MEMBER: Are there additional things besides just plant inquiries regarding the marketing that drives these prices or just plant sales?

MS. TAYLOR: Just those reported prices. They then make allowances and yield factors that are informal.

MS. COALE: The follow-up question is what are the other factors used in the formulas? So that is what Erin is clarifying.

MS. TAYLOR: So you have your commodity price, a make allowance, and then a yield factor. Generally, those are the three parts of that. And those -- and those prices reported to us are audited. It's a mandatory program. And those plants are audited. So we do have auditors that go into those plants to audit their efforts and ensure that what they report to us is accurate.

MR. HUNTER: So just to add onto that a little bit. So the classified prices that we come up with and the charge the handlers the different class prices, we have basically two types of Orders in the Federal Order system. We have component Orders and then we have the skim fat orders, as Bill mentioned. And the difference in those really is that we use standard factors or standard component values in the skim Orders to come up with a skim value. Okay?

So we take protein times 3.1, and other solids times 5.9, and we come up to a value for the skim value. But they are basically, the skim Order, skim fat Order or the component Order, they are all derived from these same prices that we are talking about in values. Okay? They are all built from the base up based on these values.

MS. TAYLOR: I want to add one additional thing. So on the page where we have the reporting program, there is a website at the bottom of that in red. So if you go to that link, it lists -- it shows you where all the price announcement, you can see the current announcement, you can see historical, you know, all the announcements previously. And I just showed you the first page of the announcement. If you go through those it will list -- in the back pages it lists all the price formulas in all the, you know, minute detail of what factors went into those. I attempted to give you very general outline of what's in those formulas. Okay? So I do know that they were simplistic, but for today's purposes we tried to just generally explain what are in those. All the details you can find, though, through those announcements and go through those pages.

MS. COALE: The website for your reference is www.ams.usda.gov/rules-regulations/mmr/bmr. That information can be found there.

What is the process by which a producer-handler -- less than three million pounds per month -- applies for exemption from pool obligations?

MR. WISE: The Section 10 which defines the producer-handler, it starts out as a producer-handler means a person who operates a dairy farm at a distributing plant, at their own sole risk and enterprise. So a person can be an individual, a partnership, a corporation, or some other business unit. So the Market Administrator, in terms of satisfying the Market Administrator, that the entire operation is under the sole risk and enterprise of the person, it really kind of starts with what person. If it is an individual, it might be a little bit easier to do than if it is another type of business unit. So it really depends on the type of business structure, the type of records. So it's really, there's no timeline, per se. It's still the market share is satisfied based on all the information he or she can get, but a lot of it depends on the business structure of the producer.

MS. COALE: Do you have any estimations on how long that application process would be in the review? I know you indicated that it varies, but are you talking 30 days, or are you talking six months, or what period of time?

MR. WISE: Yeah. Again, I hate to put a definitive number on that. It just really depends on the type of operation, the quality of the records, the -- you know, sometimes if you ask for something, you don't get it right away. Maybe people are busy and it may take awhile to get the information back that we requested and they take awhile for us to analyze it, so I really couldn't put a timetable on that.

MS. COALE: We're going to go back to fortification and this was Slide 29. The fortification provision plants pay Class IV price for components they are to fortify the milk with, and then pay ? the Class I price for the volume increase? Don't they pay twice?

MS. TAYLOR: No. So typically, you know, what goes in a Class I product is priced at Class I. Okay? So the fortification says, well, if you use powder condensed to price, to fortify your product, then you only have to pay Class IV. It is allocated to Class IV, that's what you pay for. But because you're fortifying, you either there's extra Class I product that you are able to sell. Right? Your volume increases by some amount. So it is only on that difference, because you are selling extra units of Class I into the market that you have to pay the Class I price on.

MR. HUNTER: So let me help a little -- maybe. So really what we're charging is the difference between IV and I, okay? So if you purchase the powder for IV, you pay IV for it already, right? And so for that volume increase, we're going to charge you the difference between IV and I. That's the way it works in the pool. Okay? So for those solids that actually, or fortification solids, there's no charge there, so that's kind of in and out of the pool. But for the volume increase, there is a little bit of a charge there, the difference between IV and I. It's classified as I but we charge a difference in IV and I.

MR. WISE: The allocation process involves, by taking, showing us how you used all the milk and then what you bought that wasn't producer milk, and what we come down with then at the end is producer milk.

So in this case, the powder used to fortify Class I is a Class IV use, up to the part where you have the volume increase in I. So if you think about it, the plant is reporting to us, okay, we used ten pounds to fortify Class I, if you bought that much milk. So your Class IV utilization has that powder but that's not producer milk, that's another receipt, so we subtract that out, so it's a wash. It's a utilization handler receipt. So the only thing you are being charged for is the Class I volume increase.

With IV you are being charged for IV, you are being credited for IV, so it is zero. You are only being charged for the volume increase of I.

MS. COALE: Does that help?

Is the Administrative Assessment only paid by producers or is there an assessment on handlers, too?

MS. TAYLOR: So the Administrative Assessment is paid by handlers. It can be up to $.08 and that's a maximum. That actual assessment is set individually by the Federal Order. In most Orders I think it is around $.03 to $.05 that the Market Administrator charges on all pooled milk, and that charge goes to handlers, which means that the handler cannot deduct that money off of the producer's blend price.

The Marketing Services Fee can be up to $.07, that's a maximum. I think they are most around $.05 in most Orders. And that's only on milk for which the Market Administrator Office provides services at a Cooperative isn't already providing; weighing and testing of milk, and market information, things like that. So that charge actually does go to the producer, but that's only on milk for which a Cooperative isn't already providing that service for a nonmember. So -- well, I'll ask the question. I'll answer the question as asked.

Administrative Assessments are charged to the handler up to $.08, but that's a maximum. It doesn't mean that that's what it is. And Marketing Service Assessments are charged to nonmember producers for those marketing services of up to $.07.

MS. COALE: Thank you. The next question is: How long does USDA have or expect it will take between May 15th and the issuance of a Final Decision?

Our goal would be to have a Final Decision issued in the Fall of 2017. There are many factors that come into play, but that is what we are working off of at this point in time.

There are two questions that are very similar so I'll read them together. Will USDA wait on CDFA's decision or information regarding how they can handle quota before issuing the Final Decision?

And the second question is: CDFA's proposed findings they anticipate releasing will be critical to the evaluation of quota as a sustainable program. Is there a way to extend the comment period until after producers review and evaluate the proposed findings?

Since CDFA is considered an interested party, just as everyone else in the room, they will have until May 15th to submit comments on how they anticipate the Quota Program to be working. And if there are issues related to that, they would have to make certain that they are submitted and part of the record. USDA will not wait for CDFA to make their determinations. We will have to move forward and we would move forward based on the assumptions and the expectations that are contained in the Final Decision as to how CDFA would operate their state program.

So since CDFA is considered an interested party, they will need to make their determination. And when they choose to make that available to the public, we don't know. As our sources have indicated, it is a top priority for CDFA. We understand the significance and the importance of it, but they will need to submit comments on the Record as well, if there are issues that need to be addressed within the Final Decision regarding the Quota Program.

If CDFA has not issued its assessment of the scope of its authority to operate USDA's directed Quota Program sufficiently in advance of the May 15th, 2017, comment deadline, will USDA extend that guideline, since key as to what CDFA's decision is to determine a Final Decision, if a Final Decision on a Federal Order is possible?

So one of the previous add-on's to the question is, is there a way to extend the deadline? And that I believe is the question being posed here as well.

USDA has provided a 90-day comment period on this Recommended Decision. Typically, Recommended Decisions have a 60-day comment period. Due to the significance of this decision, we have already granted 90 days. If the industry determines that there is a significant basis and a reason for extending the comment period, the industry, any interested party can submit a request to USDA asking for an extension. They can ask for that extension for any number of days that they believe is necessary, but do need to provide some kind of basis for which to request that extension. At that time, USDA will make a determination as to whether or not the extension will be granted. As of now, the comment deadline is May 15th.

Will USDA qualify California Cooperatives for the referendum without the coop marketing milk on an existing Federal Order? And, yes, this is a standard practice that we do in situations where the coop has not had an opportunity to market milk on a Federal Order.

Is the Federal Order producer milk provision the same as market milk under CDFA?

MS. TAYLOR: I'll attempt an answer.

Producer milk in Federal Orders is very specific. It means it meets the producer milk definition, which in the -- you know, in the California Order it lays out a certain standard. I think market milk in the California Order is milk -- I don't want to attempt to say what it is in California. I have to talk to CDFA to try to understand it, but I don't want to make a wrong assumption here on the record. So in Federal Orders, the producer milk means it meets that producer milk definition, which means it is allowed to be pooled.

I don't know if you can show that slide, Dana. Make it easier.

MS. COALE: I was trying to get to it.

MS. TAYLOR: I think it is after classification. It is below pricing.

Producer milk definition means that that is specific milk of a qualified producer that's eligible to be pooled. Which means that that producer has shipped milk to a pool plant or a Cooperative handler. So if a producer does not ship milk, any milk, to a pool plant or a cooperative handler, then that producer would not have producer milk on the Order. Okay.

MS. COALE: Okay. I'm getting blank looks but we'll assume it is okay.

Is there anything in the Federal Order which would prohibit producers from being paid their Federal Milk Order value and a California quota value in a single check or in the same check?

MS. TAYLOR: No. And I would assume that if this Federal Order was voted in, you know, we would -- that's kind of one of those things we would have to work out administratively. But we would just ensure that the minimum blend price is paid by the handler to the producer. Whether the handler, in that same check, pays the quota value to that producer, that's fine. We're not going to -- we wouldn't require that to be segregated into a different check. But on a producer payroll check it would need to show the minimum blend price has been paid.

MS. COALE: If a producer is not pooled for economic reasons, do they have to touch base again?

MS. TAYLOR: No. So if a producer was qualified on the Order in IV, some reason that handler elected to not pool their milk in one month, that producer would not have to requalify again to have the milk pooled.

MS. COALE: Please review the process of meeting the 10% shipping standard.

MS. TAYLOR: The shipping standard applies to supply plants, so if a supply plant, for ease, had a thousand pounds of milk associated with that plant during the month, they would need to ship at least a hundred pounds of milk to a pool distributing plant, fully regulated plant, or a partially regulated plant. Once they met that 10% standard, then the other 90 would pool an additional 90% on the Order, and all of that milk will be priced and pooled on the Order. So they have to deliver milk to that fully distributing plant. That's where the 10% standard applies.

AUDIENCE MEMBER: That's why I said that.

MS. TAYLOR: I think somewhere -- so they have to ship it to distributing plants, fully-regulated distributing plants or partially-regulated distributing plants. I think the Order language also allows them to ship to a producer-handler. But remember, the producer-handler can only purchase so much outside milk. I was trying to simplify things. But generally it would have to ship 10% to either a fully-regulated distributing plant or a partially-regulated plant.

Does that clarify it?

MS. COALE: Okay. Another fortification question.

Is skim used for fortification manufactured at a supply plant counted in the 10% shipping requirement?

MR. HUNTER: Bill and I were looking at each other on this one. We think so. Okay? I mean, it's not our Order. So -- but, yeah. I think so. So -- and I assume in this case what we're talking about is maybe skim going into condensed and condensed moving to a distributing plant to the be used for fortification purposes. I believe that that would be counted, yes. Skim total value.

MS. COALE: Okay. Can anybody explain the quota recognition again and how much does it cost producers and how is this determined?

MS. TAYLOR: Okay. Quota recognition. So how much it would cost producers would be determined by CDFA. Right now in the record, the Hearing Record reflects that anywhere from around $12 to $13 million a month comes out of the marketwide pool to pay quota value. That means that that money comes off all of the milk that's pooled on the California Order.

So it would be up to CDFA to determine how much money they would need in a given month to pay out quota values. I would assume on the same -- same milk that now pays for, which should be all of California milk. But that exact amount, CDFA has to determine and say on a per hundredweight basis, all the milk has to -- all the milk pays this amount, whatever that is, and we don't know. Let's say $.40. All the milk in the California produced milk would pay $.40 and that money would then go pay quota values.

For the Federal Order, remember, handlers, the payments to producers are enforced by us, that minimum payment. So by allowing an authorized deduction, we are allowing the handler to deduct that money out of the producer's paycheck to pay for quota and not violate that. So they would -- that would be allowed.

There's only certain deductions that are authorized deductions on a producer's paycheck. One would be hauling, for example. You can say that the hauling charges could be taken out of your paycheck, and, you know, for efficiency sake, or promotion assessments that, check off assessments that are paid, that's an authorized deduction. This would be an authorized deduction in that case of quota assessment.

And that money, then, would be somehow collected and disbursed to quota members. But how that would operate, you know, that's something that CDFA would have to say that this is a path they chose. And clearly, we would need to work together with them and have working relationships onto what milk was pooled or not pooled, and what milk, then the assessment would come off of, etcetera. And that's kind of more in administrative fashion, figuring out how that would all work together.

AUDIENCE MEMBER: Would CDFA have authority to deduct that from nonpooled milk as well or only pooled milk?

MS. TAYLOR: So I'm not --

MS. COALE: The question to be repeated is, does CDFA have the authority to make that deduction off of nonpooled milk to account for the payment of quota?

MS. TAYLOR: So think of it as this. CDFA would still operate the Quota Program just like they do now, which is on all California milk. All we are saying, on this pooled milk in this Federal Order, a handler may deduct that money off of the milk that we would regulate, the Federal Order would regulate. That's what that allowance allows.

AUDIENCE MEMBER: Would come off the minimum price.

MS. TAYLOR: Would come off the minimum price.

So for nonpool milk, a handler, I would think, you know, a handler would have some, if this is a supply plant, pool milk or nonpooled milk, I mean, that would kind of -- it is complicated, but it would all kind of get -- you would have to work that part out. We are just saying when it came to pooled milk, we would authorize that deduction to come away from the minimum blend price.

Did I beat that dead horse?

MS. COALE: And officially there is another question, Erin, that says, does USDA intend for deductions for quota to come from nonpooled handlers?

MS. TAYLOR: Yeah.

MS. COALE: I think you answered that.

So the next question. What happens to the money that is deducted from the blend to account for the location differentials?

MR. HUNTER: So the question is, what happens to the money? And I guess we're talking about money, in this case, at a minus location. I don't know if everybody understands this.

So we're going to be announcing the price in the way it is proposed, at the L.A. zone, which is $2.10, and that's the highest price zone in the market. And so if you shipped your milk to, say, you know, an area here in the valley, it is $1.60, so it is $.50 less. Right? And so what happens, since those dollars, are the producer that ships to the valley, his price is going to be $.50 less. Those dollars are not paid to him, so they are added back into the pool. And in effect, it raises the PPD. You just redistribute across the whole group.

MR. WISE: It is paid back into the pool. Because again, remember that a handler's cost of milk is always the class prices. The handler always owes the producers the producer price. And if the class value is greater than the producer price, the handler pays into the fund. If it is less, it draws out.

So as Cary just said, the handler's value, his utilization value is staggered. And then if the producers are due less money, then that increases the amount of money the handler owes the producer.

MS. COALE: Is that clear?

MR. HUNTER: We may have covered two things there, but that's okay.

MS. COALE: So the next question: Explain 1051.7(f)(7) MREA, and how that works for achieving touch base and the 10% standard?

MR. WISE: Section -- I have talked a lot today -- Section 7 of the Order, which is the common number to all of us, defines what a pool plant is. So in this case, 7(f) is commonly known as the Milk Regulatory Equity Act, and that defines a distributing plant that is located in a marketing area, but it is not qualified as a pool distributing plant, and it has sales into a state that requires minimum payments in an the amount that's 25/25, as Erin put up on the slide there. So if a handler meets that standard and it becomes a pool distributing plant, it is just like any other pool distributing plant.

MS. COALE: Okay. Please repeat the comments on bloc-voting and the relationship between a coop bloc-vote and an individual coop member.

Under the Federal Order system, qualified cooperatives are allowed to bloc-vote on behalf of all of their members. The Federal Order system does not recognize a modified bloc-voting, it has purely straight bloc-voting. So if there are 300 members in the coop and the coop elects to bloc-vote, they are voting on behalf of all 300 members. Even if some of those members might not agree with that vote, the coop has the ability to cast that bloc-vote.

For producers who are either in a Cooperative that is not qualified under a Federal Order, or a Cooperative who is qualified and elects to not bloc-vote, or is an independent producer on the Order, they will receive an individual ballot. And in that individual ballot, they will be able to cast their vote. These ballots will all be included in the final count on making a determination as to whether or not the California Order is approved.

Again, it's only those votes cast that determine the approval. So if there are approximately 1400 producers who are determined to be eligible to participate in the vote, and only 500 of them elect to vote, then that 500 will be the basis for which we'll look to determine if 2/3 of the producers have approved it, or if 2/3 of the volume of milk voting in the referendum has approved it.

So, again, it is just like a regular elections that we have. You have to participate to be counted. Is that clear?

The follow up question to that is, is there a listing of Cooperatives that can bloc-vote? We do not have posted anywhere a listing of Cooperatives that are qualified to bloc-vote. There are listings under Federal Orders of the Cooperatives that are marketing the milk on those Orders, but we have not put together a, just a specific list for qualified bloc-voters. Is that clear to everybody? Is everybody still awake? That's important.

So the next question is: Grade B producers are not regulated by a Federal Order, so will only Grade B producers be allowed to vote on a decision? No -- sometimes I get the easy answers and sometimes I don't.

So there are a couple of questions here related to Executive Orders, and I will attempt to answer those.

The first question is: On January 30th, 2017, President Trump signed an Executive Order on reducing regulation and controlling the Regulatory Cost, AKA, the 2-for-1 Order. What impact, if any, does this Executive Order have on this proceeding? And if the answer is we don't know, will you inform the industry when you do know?

So, yes, it is true that President Trump did issue this Executive Order. At this particular point in time, we are awaiting further guidance and clarification as to how that Executive Order is to be implemented and carried forward. Once we know that, we will provide information out, if it is possible for us to do so.

So then the next question following that is: Have Executive Orders issued by the current administration to date affect the process from this point forward for this proceeding?

And I believe this, again, is referring back to the 2-for-1 regulatory Executive Order that was issued. And, again, we're still waiting further clarification for that.

The next question: Explain the difference in the Federal Order Audit Review of individual producer milk checks between Cooperatives and proprietary handlers in light of the Cooperatives right to reblend.

MR. WISE: Okay. If I understand that question correctly, we're going to fully regulated handlers are required to pay producers minimum prices. Cooperatives are considered a producer as in one entity. So if the coops, say a hundred coop members deliver to a Bill's Pool Distributing Plant and that total value of that milk equals $10,000, well, then we verify that that pool distributing plant paid to the Cooperatives that amount of money it totaled. Then the Cooperative is free to reblend that payment to their producers according to the producer's contracts.

If the producers are nonmembers, then we verify that each nonmember received at least the minimum Order value for their milk.

MS. COALE: So the next question is an indication that we didn't do a very good job in our teaching this morning, because the question is: Do you intend to answer last week's pre-submitted questions? Which is an indication that obviously we did not answer last week's pre-submitted questions. And the intent of the pre-submitted questions was to hopefully put information in the presentation that answered those questions. But clearly we didn't hit the mark on that.

So to make certain that our record is fully complete and adheres to all of our required regulations, as our attorney has advised, we are going to read all of the pre-submitted questions that were submitted to USDA so they are officially on the record, and we will make certain that each one is answered accordingly.

So to begin. Location differentials. If two Dairy Farmers are located in Tulare County with identical component tests, where one ships his milk to a butter/powder plant within Tulare County, and the other ships his milk to a fluid plant in Los Angeles County, apart from any authorized deductions, do the minimum regulated pool prices that they must receive differ?

MS. TAYLOR: So I attempted to answer that generally. But, specifically, yes. This has to do with your location pricing. So Los Angeles is in the $2.10 zone and the blended price is supposed to be amounts in the $2.10 zone. Okay?

Tulare County, which I will admit I don't have my California geography known like the back of my hand, yet, but I believe it is in the $1.60 zone. So a producer who delivers milk to the plant in Los Angeles County would get the amount, generally without deductions, would get the announced blend price. That blend price would be announced in the $2.10 zone.

The producer who delivered to a plant in Tulare County and that milk was pooled, would get the announced price at the $1.60 zone, so it would be $.50 less for that milk. Okay?

I think I answered that specific example.

MS. COALE: And then we have a series of pooling questions. Will California cheese plants and California butter powder plants be able to operate as nonpool plants under the proposed California Federal Milk Order?

MS. TAYLOR: Yes.

MS. COALE: Under the proposed California Order, are pool handler obligated to account to the pool at the Order's minimum class prices for nonpooled milk that they receive?

MS. TAYLOR: No.

MS. COALE: In the case of a Cooperative handler diverting pool milk to a nonpool plant, which entity it required to account to pool at the regulated class prices, the Cooperative handler or the nonpool plant?

MS. TAYLOR: The Cooperative handler, if they chose to pool that milk.

MS. COALE: In the situation just described, does the nonpool plant have any obligation to account for, or pay, regulated prices under the proposed Order for the diverted milk they have received?

MS. TAYLOR: No.

MS. COALE: If a Class III handler is pooling 100% of their milk receipts, 10% of which are delivered to pool distributing plants in January, and then chooses to pool 50% of their milk in February, how many months will it take before they are again able to pool all of the milk that they were pooling in January?

MS. TAYLOR: Four. In the first month they could pool 62.5%; in the second month they could pool 78.13%; in the third month they could pool 97.65%; and then in the fourth month they could pool it all again.

MS. COALE: If a Class III handler has not been a pool handler and it receives from producers a hundred million pounds of milk per month, what must it do in order to pool the entire one hundred million pounds?

MS. TAYLOR: If that plant wanted to be a supply plant, it would either ship 10%, 90 million pounds, to a distributing plant or a partially-regulated distributing plant.

AUDIENCE MEMBER: 10 million pounds.

MS. TAYLOR: 10%. I was trying to be really specific, but I got -- 10%. 10%.

MS. COALE: Can an out-of-state manufacturing Class II, III, or IV plant qualify as a pool plant under the proposed California Federal Order?

MS. TAYLOR: Yes. They just need to ship 10%.

MS. COALE: Were all the pooling questions answered?

MS. TAYLOR: Yes.

MS. COALE: That was not intended for the table.

The next series or area of questioning was on reporting. How do the reporting dates for receipt and utilization under the proposed Federal Order compare to the required reporting dates under the existing California State Order?

MS. TAYLOR: So I did start off intending to specifically answer this question, and I did ask CDFA to give me their reporting and announcement dates. But because it is kind of different, I didn't want to put up on the screen my wrong interpretation of what the dates are currently. So I only put up, or we only put up Federal Order dates, and then we tried to provide an example so that hopefully you can relate that back to how it currently works. But we did not want to put up a wrong information. So I only partially get the dates right.

MS. COALE: Hopefully you will be able to take the information we provided today and the information in this decision and pull up the California State Order payment provisions and make that comparison.

Quota. If the proposed Order as described in the Recommended Decision were adopted in California, how would the Quota Program work?

MS. TAYLOR: I think we have answered that.

MS. COALE: Is that answer sufficient? Okay.

And we had a couple of other questions that came in that we are pulling up and we'll be asking those on the record here in a minute. So while we're waiting to get those, I'm going to move on to some of the other questions that have been submitted now, that they seemed to put my name on.

The Recommended Decision references an MOU -- a Memorandum of Understanding -- with CDFA being constructed or contemplated -- I'm not sure what the word is. What subjects would such an MOU address? Handler audits, producer payment audits, other provisions?

At this point in time, it is hard for me to answer that question as far as all of the provisions that would be contained in an MOU with California. Of course there would be provisions related to operations of the Quota Program because we would have to work in sync with CDFA regarding how that Quota Program would be operated.

If the question is getting at how is the actual Federal

Order going to be administered, which is where I think some of the handler audits and payment audits and stuff is coming from, we would be establishing a Federal Milk Marketing Order. Here we would have a separate administration for administering that Order. Now, clearly when we, if we get to that point, we would be looking to CDFA and having conversations with them if there are ways to utilize staff for various positions that might be needed and various activities that might be needed, but clearly this is not a question that I can really answer at this particular point in time as far as what detail and what exact areas would be covered in the MOU with CDFA. But clearly, the most important point at this point in the process would be addressing the Quota Program recognition.

So in combining a couple of questions that we got, because they are very similar in nature, the questions that were submitted in advance relate to, would it be possible for USDA staff to prepare a sample Producer Settlement Statement or some similar sort of document, or have some monthly announcement at uniform price that could be presented and explained during the February 22nd presentation? This type of real-world example could be helpful for California producers in understanding better what they would see in terms of information on pricing and price adjustments under a Federal Order as presented in the Recommended Decision.

MR. HUNTER: We put this together, so as an example of possible paycheck. This is the way that we would approach it and look at it. Obviously, if you are a coop member, they can reblend and do something maybe a little bit differently. But the producer's going to be paid on three components; butterfat, true protein, and other solids. And then you would be the PPD, the Producer Price Differential there. It's paid on a hundredweight basis in this example. But you will have your pounds of butterfat, your pounds of true protein, your pounds of other solids paid out at the rates that were actually the same rates as the Class III price. You get gross value, and then you would have some authorized deductions such as hauling, the promotion assessments, and then quota. That's where we would be recognizing your quota assessment at that point.

And then there might be, you know, if CDFA decides to net your assessment and your payout, well, whatever they work out in getting that money back to you for the quota overage, it could be in that statement also. But this is just a simple example of how the producer would be looked at from our standpoint.

So the one thing I would say, and it was brought up is, we are, under a Federal Order system, we use true protein and not total nitrogen. And I understand in California, when they give ya'll protein tests, it's actually a total nitrogen test. And so we use true protein.

True protein is approximately about .19 lower than a total nitrogen test. So the nonprotein nitrogen is about .19 of your test. So just keep that in mind, okay?

MS. COALE: We also received that same question here today. Do you have a slide prepared which would show what a Producer Settlement Sheet would look like for us to see? That's -- including a PPD flow-through.

So hopefully this has sufficiently answered the previously-submitted questions, as well as the questions today. Follow-up to that?

AUDIENCE MEMBER: Yes. Where does the location differential appear on the settlement sheet like this?

MS. COALE: The question is, where does the location differential appear on the settlement sheet with the example that we have provided above?

MR. HUNTER: Okay. That would be in that PPD. So let's say the PPD was announced at Los Angeles and it was a dollar, okay? So in this case, this would be for producer delivered milk to the Los Angeles area, let's say. Okay? This PPD is a dollar. The way we announce, if it had gone to Tulare and that's in the $.50 lower zone, this PPD would be $.50, it would be $.50 lower. So it's up to the, you know, the payrolling agent, how they would necessarily show that. They could show it as a $1.00 and a minus $.50 or they could just show it as a total of $.50.

MS. COALE: Another follow-up question to that?

AUDIENCE MEMBER: Yeah. Two questions real quick. Is this slide going to be in the deck that's going to be on the website?

MS. COALE: Yes, any of the information presented today, any of these slides will be on the website and included as part of the proceeding.

AUDIENCE MEMBER: Okay. And then standard milk in Federal Orders 3-5 butterfat. What's the standard for true protein and other solids?

MS. COALE: The question is, what are the true protein and the solids content in Federal Orders?

MR. HUNTER: Yeah, it's 3.1% for true protein, 5.9% for other solids. Combined that's 9% SNF -- solids not fat.

AUDIENCE MEMBER: Thank you.

MS. COALE: For those participants who are listening via the webcast and maybe aren't able to clearly see the slide, the slide that we are referring to is payments to producers component pricing. So it will be clear in the slide deck when you look at it, the slide that we're referencing. And another follow on question to this slide?

AUDIENCE MEMBER: Yeah. Just for Mr. Hunter. When you -- the question was about standard, and the answer was 3.1 true protein; 5.9 other solids; 9%. Is that 9% of the 100 or 9% of the remaining, after you take the butterfat out of the skim?

MS. COALE: Can you repeat the question, Cary, or do you want me to repeat it?

MR. HUNTER: You repeat it.

MS. COALE: So the question is, where does that 9%, how is that 9% calculated? Is it from --

AUDIENCE MEMBER: The question is what does the 9% represent?

MS. COALE: What does the 9% represent?

AUDIENCE MEMBER: 9% of the hundredweight or is it 9% of the skim?

MS. COALE: 9% of the hundredweight or 9% of the skim?

MR. HUNTER: Well, it's actually -- it's 9% of the solids nonfat, yes. Solids nonfat. It's hundredweight of solids nonfat. Skim -- yes. No fat. It's solids nonfat.

MS. COALE: Yes? No?

AUDIENCE MEMBER: Well, I get it, but I think a lot of people probably are confused.

MS. COALE: Okay. So why don't we attempt to re-explain all of this completely. Okay? So there you go. On this.

AUDIENCE MEMBER: If I could give context.

MS. COALE: The context of?

AUDIENCE MEMBER: Context, you have a settlement in front of us, right? We have a slide we're looking at?

MS. COALE: They are looking at the Payment to

Producers Cooperatives Pricing Slide.

AUDIENCE MEMBER: Right. And we have a PPD, Producer Price Differential, that relates to, it says hundredweight.

MS. COALE: There's a Producer Price Differential that relates to the hundredweight value.

AUDIENCE MEMBER: In our minds that's a hundredweight of milk.

MS. COALE: That is a hundredweight of milk for the producers who are looking at this who haven't experienced it, so please explain that.

AUDIENCE MEMBER: Well, so then when the answer is what is the standard for protein and for other solids, it's natural to think that you are referring to a hundredweight of milk, but you are not, you are referring to the skim portion of that milk.

MR. HUNTER: Well, we're talking about two different things. So when he -- he was asking the question about standards, we were talking about the standards in the form notes.

On this particular check stub here it's going to be actually whatever the producer has in his milk, okay? So if he had 3.3% protein, it would be the 3300 pounds of protein there, instead of 3100 pounds of protein. Okay? This is just an example.

So the producer's going to receive a payment for whatever his test was, okay? So we're talking about two different things.

The question earlier was about when we put our formulas together we use a standard factor, okay? To come up with a 3.5 price, and that's what I was addressing with this question there. Okay.

AUDIENCE MEMBER: Can I help clarify? I think I know what he's asking. California standards, 3.587 off of a hundred pounds of milk.

MS. COALE: California standard is 3.587 --

AUDIENCE MEMBER: Butterfat, yeah.

MS. COALE: Off of a hundred pounds.

AUDIENCE MEMBER: Correct.

MS. COALE: I'm going to try and repeat what you are saying so that the people on the webcast can hear this clarification.

AUDIENCE MEMBER: So you have, out of a hundred pounds of milk, when the State announces the hundredweight price --

MS. COALE: So of the hundred pounds of milk, when the State announces the price --

AUDIENCE MEMBER: Okay. It's 3.5 pounds of butterfat.

MS. COALE: It's 3.5 pounds of butterfat.

AUDIENCE MEMBER: 8.7% -- or 8.7 pounds of SNF.

MS. COALE: 8.7 pounds of SNF.

AUDIENCE MEMBER: Yeah. So my question, which Cary answered, was, what is the standard in the announced, in the standard price of a hundred pounds, right?

MS. COALE: And the question asked is what is the -- what is the announced price in what we have posted here?

AUDIENCE MEMBER: Yes. So, for example, when Federal Order says that it is off of a standard 3.5 butterfat --

MS. COALE: So when the Federal Order says it's off of a standard 3.5% butterfat --

AUDIENCE MEMBER: I was trying to inquire what the standard for true protein other solids is. Okay?

MS. COALE: So the inquiry is to what the standard was for true protein and other solids as listed in this pricing.

AUDIENCE MEMBER: So Cary answered, and I think he's just trying to clarify that the 9% SNF is equivalent to California's 8.7 SNF.

MS. COALE: So in the clarification that was provided by Mr. Hunter, the 9% percent is equivalent to the 8.7% in the California Order.

AUDIENCE MEMBER: Correct or not?

MR. HUNTER: No, but you are close.

So the 3.1 and 5.9 is what we use. That's the standard pricing that we use to come up with the skim value. Okay? So if you are going to add fat back into that equation, all right -- at 3.5%, then if you are looking for a similar number to that 8.7, it would be 96.5% of 9, because we have 9% skim, that's our standard factor, which comes out to 8.685, which is very similar to your 8.7. That's clear as mud I'm sure.

MS. COALE: I did see a thumbs' up in the back, so you know what? Are we okay on this?

AUDIENCE MEMBER: I'll get there.

MS. COALE: Okay. Excellent. Okay. Clarification point?

AUDIENCE MEMBER: Well, just to carry that out, the farm, the 8.67 in farm is 2.9 protein --

MS. COALE: The 8.67 at farm is --

AUDIENCE MEMBER: At 5.7 or whatever --

MS. COALE: 2.9% protein and 5.7 other solids. Okay.

Are we good? Mud.

Is there any other clarification you can provide, Cary?

MR. HUNTER: I'm scared. So Marv's trying to say, you know, in the mixture, if you are talking about full fat, the protein -- we use a 3.1 standard to come up with skim. 3.1 true protein and 5.9 other solids, come up with 9% skim, right? But you don't ship skim, you ship full fat milk, right? So the actual SNF in your milk is going to be a little bit less because it's diluted, right? And so the protein in your milk, if it's the 3.1 standard, then your -- with a mixture of 3.5% fat, it's going to come up to like 2.99, and that's what Marv was trying to get at there.

MS. COALE: Okay. Thank you, Mr. Hunter. Thank you for the follow up questions. Hopefully it will become clearer as we have an opportunity to read this transcript.

Okay. Moving along to the next question.

Would a Cooperative with no supply plant qualify to divert milk at 10% of its pooled value is delivered to a distributing plant?

MS. TAYLOR: Yes. That Cooperative can be a 9(c) handler, that's what we discussed. A Cooperative can pool the milk by shipping 10% of it to a distributing plant, and that can be of its member's milk or it could also be marketing milk of nonmembers.

MS. COALE: The second part of that question you just answered, is the answer the same for a nonmember supplier?

MS. TAYLOR: Yes.

MS. COALE: A supply plant can ship one day's milk to a distributing plant and be able to pool 100% of the milk from that farm delivered, even if one day's milk does not equal 10% of the total milk.

MS. TAYLOR: So I think that's combining two different things. We're talking about a one-day touch base and a 10% shipping standard. Okay? The 10% standard applies to a supply plant -- applies to the plant. If the plant wants to pool its milk, it has to ship 10% of its milk to a distributing plant. The one-day touch base standard applies to a producer milk. In order for the milk of a producer to be pooled and have its milk that might be diverted to a nonpool plant remain pooled and priced in the Order, the producer has to ship one-day's -- one-day's milk production to a pool plant. So those are two different standards. The 10% applies to a supply plant. The one-day touch base applies to producer milk. So the producer's milk needs to go to a pool plant, at least one-day's milk production during the month.

Now, that is usually a decision of when it goes to that pool plant is made by whoever pools it. The Cooperative would make, you know, figure out how to get that producer's milk to a pool plant, and then the rest of that producer's milk can be diverted to a nonpool plant and still be priced and pooled.

MS. COALE: Next question. I understood in answer to state that shipments of condensed would support qualification of a supply plant. What language in the Recommended Decision allows this? If allowed, is it on condensed pounds or volume or reconstituted pounds per volume?

MR. HUNTER: Yeah. The supply plant definition basically says, a supply plant in which the quantity of bulk fluid milk products shipped to plants described in Paragraph (c)(1) of this section. So condensed is a fluid milk product and so we deal with it on a skim equivalent, and it would become in the skim equivalent volume.

MS. COALE: Which there is a follow up question? Is there a follow up question?

AUDIENCE MEMBER: So is that one pound or two pounds?

MS. COALE: So pretty simplistically, is that one pound or is that three pounds?

MR. HUNTER: It's -- yeah. It's inflated. So your condensed is moved up. The amount of condensed or amount of skim equivalent to make that condensed. Yes.

MS. COALE: Answer?

MR. HUNTER: Yeah, it's based on the solids test.

MS. COALE: I have one last question related to process. Are there any other questions? Okay. Seeing no further questions, I'll move to the last question.

How long will it take to implement the Order in California?

Well, what I would say is, first of all, we have to receive your comments in by May 15th. Based on those comments, we would, assuming the comments are continuing to support moving forward with a Federal Order for California, we would then issue a Final Decision. That Final Decision, as I mentioned earlier, would be issued, we hope, sometime in the Fall of 2017.

Then we at USDA would undertake a series of producer meetings and processor meetings to ensure that everybody understands what the Federal Order is that has been put forward in the Final Decision. And once we completed those informational meetings, we would then proceed with a vote. And based on the determination of the vote, we would determine if the Order were to be approved, again by 2/3 of the producers voting in the referendum or producers representing 2/3 of the volume of milk voting in the referendum, we would then work to establish an effective date for that Order.

As we have mentioned before in informational meetings, because there is currently a State Order operating within California, there would be a transition period to move from the State Order to the Federal Order, and I can't give you a ballpark for what that is. I'm not exactly certain. We wouldn't anticipate it to be an extensive period of time, but there would be a period of time required to move everything from CDFA into the Federal Order, and do it in a way that creates more orderly marketing within the State, so probably a few months, I don't know. Three, six months, hopefully, would be a guess. But that's merely a guess -- for the record.

So with that, seeing no further questions, I do want to sincerely thank you for taking time to attend this public meeting to become a little bit more aware of the how's and what's of the Federal Order that has been recommended for the State of California. We hope that it has been helpful. We hope that it will also enable you to submit public comments in by May 17th, that will enable us to refine -- May 15th, sorry -- April 17th for the information collection. May 15th. So that will help refine the recommendations that have been put forward. So with that, I hope you all have a great day and thanks for being with us.

(Whereupon, the meeting concluded at 12:33 p.m.)

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STATE OF CALIFORNIA)
) ss.
COUNTY OF FRESNO)

I, MYRA A. PISH, Certified Shorthand Reporter, do hereby certify that the foregoing pages, numbered 1 to 100, inclusive, comprise a full, true and correct transcript of my shorthand notes, and a full, true and correct statement of the proceedings held at the time and place heretofore stated.

DATED: March 3, 2017

FRESNO, CALIFORNIA

MYRA A. PISH, CSR
Certificate No. 11613

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